In Illinois, the land of Lincoln, we have elected more African Americans statewide than any State in our Union, and we are proud of it. But it is ROLAND BURRIS who led the way in 1978, as our first African-American State comptroller and later as the first African-American attorney general in that land of Lincoln, State of Illinois. ROLAND BURRIS paved the way for so many to follow, including the man who will be sworn in as President Tuesday—Barack Obama. He has held two of our State's highest elective offices. He was Illinois' first African-American comptroller as well as our first African-American attorney general.

ROLAND BURRIS is a good man and a dedicated public servant, and that is why he has returned to public life. Now he is the 48th Senator from the great State of Illinois, and the 1,907th person ever to be sworn into this distinguished body.

Here is an interesting fact as well. ROLAND and his wife Berlean live on the south side of Chicago in a home once owned by the great, the immortal Mahalia Jackson, the original "Queen of Gospel Music." In 1948, Mahalia recorded a song that became so popular music stores couldn't keep it in stock. It sold 8 million copies. The title of that song was "Move On Up A Little Higher."

For more than 50 years, ROLAND BURRIS has sought to move on up a little higher—not for his sake alone but for the chance to help others, including our great State of Illinois. I congratulate him. I know this was a rocky road to this great day in his life, but it was a road well traveled and one that I am sure will lead him to appreciate how important this institution is, not just as part of our government but as a part of our future.

He is going to have a chance to not only serve as my colleague but the colleague of 99 other Senators who are going to be able to work with him and learn the values and talents that he brings to the job. I am honored today, by his being sworn into office, to no longer be both the senior and junior Senator from Illinois. We have a junior Senator—his name is ROLAND BURRIS—and I look forward to serving with him.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISAPPROVAL OF OBLIGATIONS UNDER THE EMERGENCY ECONOMIC STABILIZATION ACT OF 2008—Continued

Mr. DURBIN. Mr. President, I ask unanimous consent that all time be taken equally from both sides, as I know we are under limited time for the debate on the TARP renewal.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Again I renew the request for a quorum call.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Mr. President, would the Chair be so kind as to advise me when I have used 7 minutes?

The PRESIDING OFFICER. The Chair will so advise.

Mr. COBURN. Mr. President, we have before us today a hallmark piece of legislation that is supposed to be about credit and liquidity and the significant problems we ran into this last fall in this country when we no longer had a functioning, or barely had a functioning financial industry that allowed credit to flow which would allow commerce to ensue.

It was my belief at the time, based on what I was told and what I saw, that extraordinary measures were going to be required for us to handle this significant problem. Consequently, I ended up voting for a financial recovery package that I must say has been handled in a way completely opposite of the way we were told it was going to be handled. That is now water under the bridge. The question before us today is: Are we going to give another $350 billion—not through an oversight process, through an appropriating process—are we going to write a blank check to the Treasury Department to accomplish again what we are assured by the transition team and the incoming administration is for very specific things?

I would like to believe that. As a matter of fact, in a meeting yesterday with some of the officials of the incoming administration, I asked in a closed room where they were giving us this reassurance that this administration was not going to put more money into the auto industry under the pretext it has been done using the TARP funds; that this administration was not going to use this money for other industrial segments of our society but in fact would use this money only when and if it is necessary to keep liquidity rolling, to keep banks' balance sheets to the point where we can accomplish what we need in order to have true commerce in this country. And I must say that I felt somewhat reassured walking out of that meeting.

But one of the things I asked for in that meeting was a public statement so that the rest of America could have that same assurance. We find ourselves today, getting ready to vote on this—and that was communicated very directly, by the way, with some of the highest levels of the incoming administration—we are about to vote on it, yet there has been no public statement whatsoever that would assure either Members of this body or the American taxpayers that we are not going to be using it to bail out companies that are not competitive and have not had to do the hard things to maintain themselves to be competitive; we have no assurance we are not going to go to other industries and do the same thing; and we do not have, in fact, a public expression, an explanation, or a letter of intent of the incoming administration that they are going to use it in a very precise and direct manner to maintain liquidity of the financial sector.

The other thing that we have not heard, along with maintaining that liquidity, is how the administration will handle the toxic assets, which is what we were told the money was for in the first place.

So I come to the floor this afternoon wanting to support our new President. I want to support him. I talked to him about this issue prior to his senior staff coming and talking to us. But I find myself in the predicament of having been fooled once by the present administration not doing what they said they were going to do. They have not been transparent as to where and how the money is being spent. The American people haven't had access. We don't know the priorities under which it was done. And now we are being told again: Trust us.

Well, I am willing to do that, provided we put out to the American people exactly what that means. And the only thing that I can figure as to why it has not been forthcoming—that is what we asked for yesterday afternoon in the meeting with those representing President-elect Obama—is that they do not want to commit. And I regret to say that if the incoming administration won't commit on paper and publicly as to how they are going to use this money, I am disinclined to vote to give it to them. That pains me, because I want our new administration to be tremendously successful in the face of all the problems we have.

To meet the goal of transparency and accountability—which is what this new administration is all about, and I believe it will be far greater than what we have seen in the past; I will give them credit for that—it is required that they publicly tell the American people how, when, why, and what they are going to use this money for. And my only conclusion would be, in the face of that statement not being forthcoming, is that they either have the votes and believe they can accomplish this without being forthcoming—which again goes exactly the opposite direction of what my friend Barack Obama campaigned on—or they weren't necessarily truthful in what they told us on how they were going to use the money.

So I stand ready to try to support them, if in fact we have assurances—public assurances and documented assurances—that they are going to follow the intent of what we originally gave the money for. Absent that, I would find him be unable to support that and would vote for the resolution of disapproval.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

(The remarks of Mr. KERRY are printed in today's RECORD under ''Morning Business.'')

Mr. KERRY. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I rise to speak about TARP. The President has submitted the request for the second half of the funds. This is not an easy decision for Members of Congress. We have lots of questions about how the first $350 billion was spent. Questions came from my constituents, financial and economic experts, the oversight body. Auditors have questions, and I have questions.

I said in December, the Treasury must account for the $350 billion and make the case that the action has aided our economic recovery efforts. Taxpayers were promised transparency. They deserve answers. But after Congress authorized the funds, the Treasury Department abruptly changed course and instead provided billions of dollars in direct capital injections into banks without any requirement that they write down bad debt. To date we do not have any answer why the change was made. Perhaps the Treasury realized it could not operationally manage it. Perhaps it was because the Europeans had adopted a direct capital injection approach. But we do not know.

The change is not as important as is the explanation and justification. The change in strategy could have been more acceptable if Congress and the public understood what reasonable assurances there were that there was a coherent structure. Unfortunately, the Treasury has not provided concrete evidence that directly or indirectly linked the capital injection to the marginal stabilization of the credit market and the funds are contributing to the necessary writedowns.

Some experts also question whether Treasury diagnosed the problem correctly and accordingly allocated the funds appropriately. Now, Treasury claims TARP has worked because we have not fallen into a Great Depression. But when they are not collecting data from the banks on how the funds are used, it is kind of tough to point to that.

We need to focus on the real need for additional TARP funding and ensure that the significant questions about management and oversight are adequately addressed. In terms of need, let's be clear. I do not dispute that further Government resources and actions will likely be needed to address the ongoing economic downturn.

Unemployment is rising, double digits in some places. There are continuing credit difficulties. We must not be complacent about the prospect of an economic recovery.

I supported the initial passage of the act because we were assured it would run with transparency, accountability, and oversight. Unfortunately, we have had independent assessments of the program that do not provide any comfort. The U.S. Government Accountability Office and the congressional oversight panel have preliminary reports that are not glowing and raise additional questions.

Now, the incoming administration has made statements that it substantially agrees with these independent assessments, and it will do things differently. To date, however, all we have is a three-page letter that generally outlines how they will run it. While I appreciate these statements, a three-page letter is a little thin for me to approve a $350 billion extra share.

Taxpayers have bailout fatigue, and I am troubled by Government intervention in the private market. We need the private market at some point, however painful, to work itself out, and we must force the writedown of bad debt to address the solvency of banks. We have not seen those assurances, and I am not going to be able to support this release before us.

Many experts have implored the Treasury to use TARP to address bad debt that is still held by banks. I believe that should have been in the initial provisions. We forced the auto companies to jump through hoops. Perhaps on the other hand, they can use a guarantee program for a risk-share program.

Unfortunately, we still do not know how the second half of the funds is going to be used. We might have to have a subprime mortgage asset restructure trust like the entity we set up to deal with the savings and loan crisis. It was painful in the late 1980s, but it worked.

Unfortunately, as I said, this is not the end of the need to address our financial system. Some estimates are that about $1.5 trillion is pending, and we are likely to see more requests for funds. But before additional requests are submitted, we look forward to the incoming administration bringing some coherency and structure to the program and provide for certainty and confidence to taxpayers and markets by providing the transparency, accountability, and the oversight that is currently lacking.

There are too many unanswered questions about the current TARP. We do not dismiss the real threats of more financial turmoil. We can clear them up, but things likely will get worse before they get better. I am committed to help save the system, but we need a plan to show we are going to act responsibly and protect taxpayers while providing more accountability, transparency, and oversight.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WEBB. Mr. President, I would like to spend a few minutes today also addressing this very troublesome issue of the next tranche of $350 billion that is being asked for by the incoming administration. I, like many people who supported the initial request on October 1, was very disappointed with the differences in the current administration's implementation of TARP as opposed to the logic that was presented to us asking for our support.

I would also say if there were a new proposal coming to us from the current administration, given this experience, I would probably not support it. Given the administration's conduct since October, I would not support it. There is, however, an incoming administration that is in a situation that was created by Congress's initial vote. It is in the middle of this $700 billion proposal.

I have received concrete guarantees from the President-elect regarding TARP. I spoke to him at great length yesterday. I am going to support releasing this next tranche. I would like to take a few minutes to explain my support. I was one of the first people to originally question Secretary Paulson's request last September. I came to the Senate floor the Monday after the request was made. I laid out five different points of concern we had with the proposal itself.

I worked with other Members of this body. We had nine Senators join in a letter to the majority leader saying that any proposal like this had to, first of all, guarantee that it was not one individual in the executive branch who was able to make these kinds of decisions; that ideally, from our perspective, there should have been a three-person panel of honest brokers; that the American taxpayer should be invested in the upside of a program like this; that there should be re-regulation of the financial markets; and that there should be concrete limits on executive compensation. We had some movement on those issues during the negotiating process led by the senior Senator from Connecticut. We did not get all of them, but we did get enough. Coupled with the predictions of the catastrophic effect that might occur in the world markets without action, I decided to vote for the program. Then Secretary Paulson went off and spent the money in a totally different way than he told us he was going to.

The situation now, in my view, is different. I spoke with the President-elect. He indicated he was totally comfortable with my coming to the Senate floor and saying that he personally guarantees closure on all of those issues: that there will be more than one person in the administration, at least three people in the administration, working together to find out the best place to put these funds; that American taxpayers are invested; that there will be limits on executive compensation; and that there clearly are going to be strong proposals, to re-regulate the financial markets.

We are in a very difficult situation in this body because we cannot amend this document. We cannot put these proposals into legislative language. We can only vote up or down as to whether this money is made available, and I am going to vote to release those funds.

The distinction for me is that, in the first instance, we had an administration that was ending its tenure. It was on its way out the door as it implemented the first tranche in, I think, not a fully responsible way.

In this instance, we have a new administration coming in. They are ready to be held accountable. The President-elect indicated to me that he wanted me to inform this body of the specific guarantees he is giving. With respect to the valid concerns that were just laid out by the Senator from Missouri, we have plenty of time for debate available to us for the larger stimulus package where we can truly sort out what type of financial rescue plan we are going to put into place for the country.

So I have struggled with this like so many of my colleagues. I am very comfortable with the guarantees that were given by the President-elect. I am going to vote in favor of this program.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I am rising to speak in favor of the disapproval resolution. I think we should disapprove the use of the TARP funds, and I will outline why to my colleagues and point out the reasons and give a little bit of history on this as well.

I think it is interesting the Treasury Department came here on Saturday, September 22, and said: We have to do this. We have to have $700 billion to save the financial institutions across the United States. We have to do it, and we have to do it now. There were zero hearings on the $700 billion. Now, normally, around here you would not spend $7 million, let alone $7 billion or $70 billion, without a hearing. We did $700 billion without a hearing, and in a rush and in a push and people saying: We have to do this now or we risk going into a Great Depression.

This bill passed. Now, my phone was ringing during that period of time. My guess is the Presiding Officer's phone was ringing during that period of time. Kansans were hot and mad and upset and strongly opposed. I think at one point in time we had 2,000 calls against and 40 for the bill. There was strong opposition. They do not like the idea of giving the money to the people who made the mistakes and did the wrongdoing in the first place, and it was our taxpayer money. Then, what is in the bill—the initial bill was a 30-page bill.

Now, it expanded some after that, but we did not have a hearing process. We did not have a review process. It was: We have to do this; we have to do this now, period. It went on through the Congress, and it passed. We had two tranches: the first $350 billion and a second $350 billion, which I argued at the time as well, the second $350 billion should require an affirmative vote of Congress. I mean, this is $350 billion we are talking about. Instead, all we could get was this disapproval process which the President can veto. Then it has to come back here for a two-thirds vote. So you, in essence, have to get two-thirds of the Congress to disapprove. Nonetheless, I think we should disapprove this proposal, this bill, this additional $350 billion in funding.

Now, if the initial proposal was OK, look, we have to have it, we have to have it now to support and to keep the financial institutions going and properly functioning in the country—that money has been spent and the financial institutions are operating. Certainly, there is a lot of distress, but they are operating and they are operating effectively.

So the idea that you have to do it and you have to do it now to maintain a fiscal financial system operating is no longer there. That is one reason.

The second one: We ought to spend some time thinking about this and whether we want to do this because this has ended up being a rather large slush fund. It has been moving from various targets. Initially it was said this was going to be used to buy troubled assets. Then that seemed like it was going to take too long, so it was put into stock, into financial institutions to strengthen their bottom line.

So there was no real target given, and it was moved and sloshed around. Even on auto bailout, at the end of the day, do we want that loose of a design model on $350 billion? I would have to argue then, as I do now, no. We don't want that loose of a situation.

Then there is the matter of oversight on this particular issue. We have an oversight panel that has reported that Treasury has ''failed to address a number of questions asked by the panel itself,'' our panel, the congressional panel, in its first report. I don't see enough transparency in the manner in which TARP is being executed, and I certainly don't see enough in terms of what contingency plans Treasury has in mind to use these additional funds to grant carte blanche spending of $350 billion that could range from troubled assets, stock in banks, an auto bailout. And if that is your initial model of where you can spend it, then where else could we spend the additional $350 billion? Is this on credit card bailouts, on student loans, on another industry? It looks as though we don't know.

Quoting from the oversight panel, they were saying that this money, as I mentioned earlier, has failed to address a number of the concerns that were previously raised. Indeed, if anything, I think it could be argued that the haphazard manner in which these funds were spent has increased the financial stress and has injected uncertainty into a financial system and an economy already gripped by fear. Almost the very uncertainty and the moving back and forth said to the broader economy and to the global community: We don't know what we need to do. It helped to spread fear rather than to calm the market situation.

We need to have a calm discussion about this $350 billion. It is very difficult for me to go back home and say to my constituents: We approved an additional $350 billion and we are not exactly sure where it is going to be spent, when they were flaming mad about this being approved in the first place.

While additional TARP funding is not necessarily $350 billion of Government spending, I am not convinced it represents a well planned and executed investment for taxpayers. Many will say this is an investment, not spending. I am not sure this has been well designed or thought through of what the investment is. Indeed, it seems as though it changes by the day. The Congressional Oversight Panel says it still does not know what banks are doing with TARP money already used. So here is our own oversight panel saying that we don't know for sure what the banks are doing with the TARP money they have already gotten, and we are going to approve another $350 billion.

Without transparency about funding already committed to TARP and with only vague notions about how additional TARP funding would be used, I cannot vote to allow additional TARP funds to be released. Without more transparency and information on plans with a potentially large taxpayer cost, I do not see the merits in allowing additional TARP funds to move forward.

Those are not simply my thoughts. If you pick up the phone in my office, if you travel across my State—and I would say across much of the country—that is the sentiment you are going to get, that this just is not well planned. It is a lot of money, and we ought to calm down and take more prudent approaches, take the simple steps of holding committee hearings, looking at what sorts of distressed industries may come up, looking in depth at where the TARP funding has already been spent and what it is doing, and get answers to those simple, direct, but very important questions before we launch into another $350 billion. I think if the people in this body would listen to their constituents back home, they would say: Absolutely, don't just approve this. Let's take more time now.

The financial institutions people, as far as the situation that was existing last fall, are saying: This is getting much better than what it was at that point. Let's take our time to do it right. I am not saying that there isn't stress in the system. There still is. But it isn't the situation it was last fall. Our constituents demand that more information be known.

I hope we can do that and take our time to get this right and get the oversight right and get the answers to simple, direct, but very important questions.

I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Georgia.

Mr. CHAMBLISS. I ask unanimous consent to speak for up to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Madam President, I rise in support of the motion to disapprove the expenditure of the additional $350 billion. I am one who supported the original package back in September. I thought it was the right thing to do then. I still think it was the right thing to do at that point in time. The reason I thought so then and still think so is that we are certainly in a financial crunch. We were presented with a plan by the Treasury Department that laid out what we were going to do with this $350 billion that was the initial amount authorized to be accessed, that that $350 billion would move us in a direction of loosening the contraction of the credit markets around the country so that banks could borrow money in the credit market from each other, and they would thus have money to loan out to businesses as well as to individuals.

The fact is that the Treasury Department, after telling us the plan they proposed to operate to do that, moved in a different direction and moved in a direction of providing funding from this initial $250 billion and now the second $100 billion to fund banks, to provide capital to banks that was supposed to be used to buy toxic loans, not from individual banks but to buy toxic loans that were packaged at banks because they bought the banks. The fact is, it didn't work. It has not worked at all. We have not seen a loosening of the contraction of this credit market.

For us to come in today and be faced with a vote here today in the short term relative to accessing the second half of the $700 billion without having a plan that we have some assurance is going to work I believe is the wrong direction to go. Not only that, but as a part of the original $350 billion, there was some $20 billion or so that was accessed and given to the automobile industry, either through direct funding to automobile companies that are domestic companies that are in trouble as well as funding that went to GMAC, a financial arm of the automobile industry. That was never intended when we debated and voted on the original plan back in September of this year.

As my friend from Kansas said, it needs to be a written plan that is thoroughly thought through by folks who are certainly smarter than I am on this issue, and it needs to be in place before we take taxpayer money and expose it. I use that term because I still think, on the first $350 billion, we have the opportunity to be paid back, but it is exposed. But for us to further expose an additional $350 billion without some strong assurance that we will get repaid this money and, most importantly, unless we have some plan that gives us, while not a guarantee, a strong indication that accessing that additional $350 billion will move us toward resolution of this crisis and a loosening up of the credit market, I just think is the wrong direction in which to go. Because of that, I intend to vote in favor of this motion and in opposition to accessing that second $350 billion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, while I was given, very generously, 10 minutes, I will not take that time because I have had occasion to stand on the Senate floor since last October 10 on numerous occasions and talk about the way this vote took place in the beginning. Sometimes we lose sight of the fact that this had to start somewhere, and this start was when Secretary Paulson—and I to have say this is a Republican administration; he was the Treasury Secretary—came out with this plan on how to save the world. He said: We have to have $700 billion. It has to be spent to buy damaged assets. And even at that time, it didn't make any sense because, if you read the document, it didn't say anything as to what was going to happen to this money. It just completely was a blank check. Never in the history of Oklahoma have we voted to give anyone, elected or, in this case, unelected bureaucrat, $700 billion to do whatever he or she wants to do with it. It is mind-boggling that that could have happened, but it did happen.

The other thing that makes history out of this is, this is the largest single vote on an authorization in the history of this country. This amount is so big, I have tried to explain to people what this really means: $700 billion, if you take all of the families in America who file tax returns and do the math, is $5,000 a family. That is what we are talking about.

I opposed it originally and said that we are going to regret that we did this unprecedented thing. I hate to say it, even though I want to encourage as many Members to vote for this resolution, it doesn't make that much difference because if it should pass both the House and the Senate—and, of course, the House will be voting on it later on—then the new President would come in and would veto it. And all he would need is 34 votes, in the case of the Senate, to sustain a veto. Obviously, the votes are there. So it is going to happen. But I think it is important that as many people get on record recognizing it is not the right thing to do for America, and to do that, this is their last chance.

In October, after this passed the House and the Senate, I introduced legislation at that time, then reintroduced it with the new Congress, putting in accountability so that they would have to come to Congress. I don't care if it is the Bush administration or the Obama administration, come to Congress, tell us what they want to spend the money on. Let's debate it, go through an appropriations process so we are in the curve. That is what the Constitution says we are supposed to be able to do. But it didn't happen.

To name it TARP, the Troubled Asset Relief Program—this is no troubled asset relief program. It was represented by Secretary Paulson to be the buying of damaged assets. I have renamed it the SOAP program, the Spend On Any Program, because that is exactly what we have done. We don't know today, and we are about to pass something or we are going to end up adopting something, and this resolution will not be able to stop it. That is going to change the behavior. It is the first time this has happened in the history of this country. We are going to be saying to somebody: You can have this big block of money. You can do anything you want with it. That has not happened before. I think the historians, 30 and 40 years from now, will look back and say that the vote that took place in October that allowed one unelected bureaucrat to have $700 billion is going to be probably the most egregious vote in the history of this institution.

I look at this, and I see that this happened. I recall in October, when the majority—75 percent of the House and the Senate—voted for this thing, I said at that time that there are going to be others lined up. As this is structured, you can't stop it. You can't blame the auto industry for coming in, wanting to have a bailout. So they got a bailout. For those of you who think that is bad, I agree. But that was only 2 percent of the total $700 billion.

So we need to put these things in perspective. This is something that should not have happened. I think it is going to go down in history as one of the dark moments of this institution.

Lastly, we have talked to a lot of people, a lot of economists, three of them from the Reagan era. They said we didn't really accomplish anything with the first $350 billion. Our western farmers in Oklahoma—I won't mention which bank it is, but it was a bank that initially got $20 billion. Now they are asking for more so that credit would be loosened up. They came to me way back in October and said they received this money, but the credit has not loosened up at all. I am inclined to think that the first $350 billion was pretty much wasted, and now we are going into another $350 billion.

I would encourage any of my colleagues who voted for the initial $700 billion bailout to go ahead and vote for this resolution to stop this second $350 billion. That would be a redeeming feature in their careers. I would encourage them to do that.

I will yield the floor.

Let me inquire of the Chair: There is no one else ready to speak right now. If I were to continue to speak, would that use up time on this side? I do not want to do that.

The PRESIDING OFFICER. Yes, it would.

Mr. INHOFE. OK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. DODD. Thank you, Madam President.

In about an hour or so we will be voting on this matter. I know there are several other Members who want to be heard on this discussion, although there has been a lot said about this matter since the problem first emerged, at least the request first emerged, back in mid-September, September 18 of last year, when the Secretary of the Treasury and the Chairman of the Federal Reserve came before the leadership of the Congress and announced that within a matter of days we would be facing a meltdown of the financial sector of this country as well as, maybe, globally. From that time forward, we have found ourselves in this situation.

As I said a little while ago in brief remarks, I do not know of a single Member—at least I do not believe there is any—who takes any pleasure in being involved in this debate, involved in the vote we are about to cast, knowing the problems that have created this situation were avoidable, preventable, and had the administration paid more attention, when they were asked to more than 2 years ago, about the foreclosure crisis in this country—that is the root cause of the problems we are now dealing with—then we would not have to be here today. That is not hyperbole. That is not speculation. That is a fact. But the reality is there was denial after denial after denial: the economy was sound and solid, and things were going to be in great shape no matter what happened.

Today, we find ourselves with 17,000 people a day losing their jobs in America. Between 9,000 and 10,000 homes are going into foreclosure every day in the country. Retirement accounts are being dwindled down to almost nothing in too many cases. Costs and other matters are rising for many people. We are in the most serious economic shape since the Great Depression 80 years ago.

It is this Senate, this Congress, at this hour, with the transfer of power coming at the executive branch in a matter of hours, literally yards from where I am speaking today, that will hopefully provide a new direction for our Nation. The outgoing President—in a unique moment, I suppose, historically—along with the incoming President have jointly asked us to step up and provide a tool that might very well do something to make a difference in the lives of those 17,000 people today who will lose their jobs or maybe one of those families of the 9,000 today who will lose their home.

We can say: Look, we are not going to do this. We can flyspeck this: I don't like this part; I don't like that part. I would like more specificity here and there. We can twiddle our thumbs.

Well, explain that, if you will, to that person who might lose their job, when maybe taking action might make a difference or tell that to a family in Connecticut or Minnesota who is going to lose their house today: No, we ought to wait a week or two and maybe we will sort this out a little better somehow; like somehow the great wizards here, we are going to organize this in some fabulous way to serve the interests of the people.

This is a dreadful moment, it is a sad moment, that here in the first hours of the 111th Congress, instead of talking about resources that go to building bridges and roads or schools, making a difference in the health care of people, providing some decent retirement and hope for other Americans, we are talking about providing resources to stabilize our economy, to get our credit system working again, so you do not find the squandering of resources, to see that we might make a difference in putting a tourniquet on the hemorrhaging of home foreclosures that is occurring from one end of this country to the other.

Now, it is more dire in some areas than others. Obviously, the States of California and Florida particularly are seeing the tremendous effects of this situation. Arizona and Nevada are also paying a very serious price. But I know in Minnesota, I know in Connecticut, as well, while it is not as bad as in some of these other States, it is getting worse. There is not an economist anyone has listened to over the last number of weeks who has not told us it is not going to get better overnight.

But what do we do? Again, we have been asked to step up and provide some resources here, some serious ones to try to stabilize the credit markets, to provide some assistance. I do not know if it is adequate enough. This much I can tell you: Like all of us, we have been terribly disappointed over the management of the resources that were provided back at the end of September, early October. I honestly believe some of those resources have actually worked to some degree. But today we had about five different witnesses before the Senate Banking Committee—nominees for various posts, most of them very distinguished economists—who have spent years in this field. To a person, everyone said, well, they could not predict with absolute certainty that had we not acted in September, this economy would be in even worse shape today.

It is always difficult to prove a negative. But it is, obviously, easier for those who can stand here and say, well, I told you so or we should not have done this because it is impossible to go back and say what would have happened with any great certainty had we not acted. I think much can be said today when you have an outgoing Republican President and administration and an incoming Democratic administration, with very different views about how our economy ought to be managed, asking us jointly to step up and make this decision. I think it is important we listen and we act. That is what I am urging my colleagues to do.

This is not going to win you any parades. You are not going to get a plaque or a medal for doing this. I have great respect for my friend from Oklahoma, but I would predict just the opposite of what he has suggested. I think history will judge us, just as it judged two generations ago, what a new Congress did gathered in the winter of 1933, after the election of 1932, when 5,000 banks closed their doors and 27 percent of the American people were out of work. There was no hope whatsoever.

People got together, infused capital into lending institutions—the 5,000 of them—in the spring of 1933, and creative people sat down and worked to try to come up with imaginative ideas to get this country moving again, and an American President stood on the east front of this Capitol and said to the American people: You have nothing to fear but fear itself. Hope began to spring in the hearts and minds of Americans all across this country because while they were suffering terribly, they knew they needed a Government that was going to roll up its sleeves, keep an eye on them, and keep them in mind every single day to try to get this country moving again.

I would say to my colleagues that I believe on next Tuesday, January 20, the 44th President of the United States will remind the American people once again that the only thing we have to fear is fear itself, in his own words, and that there is a reason to be hopeful and optimistic. This is a great country, with great resources, talented, bright, energetic Americans, who want to see our country get back on its feet again. But you need to have the tools to do it. You cannot wish it well. You have to provide the resources in order to make it possible for us to get moving again. That is what this President has asked for—both the outgoing and incoming one—to give this incoming President the tools necessary to move forward.

Now, I know, as well, there is going to be far better accountability, far more transparency. Foreclosure mitigation is going to be a part of this effort. In fact, in a letter from Larry Summers to the majority leader—which I ask unanimous consent, Madam President, to be printed in the RECORD provides far greater specificity than earlier communications, and I welcome that, detailing specifically how this will work, how it will be monitored, how important the intervention on foreclosures will be, and focusing on the flow of credit, which is, obviously, critical if we are going to get back on our feet again.

I think the letter ought to provide some confidence to Members who are concerned about how this program will be managed and run, and that it will, in fact, be run differently than the present administration is doing it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE OFFICE OF THE PRESIDENT-ELECT,
Washington, DC, January 15, 2009.

Hon. HARRY REID,
Majority Leader,
U.S. Senate.

DEAR LEADER REID: Thank you for the extraordinary efforts you have made this week to work with President-Elect Obama in implementing the Emergency Economic Stabilization Act of 2008. In addition to the commitments I made in my letter of January 12, 2009, the President-Elect asked me to respond to a number of valuable recommendations made by members of the House and Senate as well as the Congressional Oversight Panel. We completely agree that this program must promote the stability of the financial system and increase lending, preserve home ownership, promote jobs and economic recovery, safeguard taxpayer interests, and have the maximum degree of accountability and transparency possible.

As part of that approach, no substantial new investments will be made under this program unless President-elect Obama has reviewed the recommendation and agreed that it should proceed. If the President-elect concludes that a substantial new commitment of funds is necessary to forestall a serious economic dislocation, he will certify that decision to Congress before any final action is taken.

As the Obama Administration carries out the Emergency Economic Stabilization Act, our actions will reflect the Act's original purpose of preventing systemic consequences in the financial and housing markets. The incoming Obama Administration has no intention of using any funds to implement an industrial policy.

The Obama Administration will commit substantial resources of fifty to one hundred billion to a sweeping effort to address the foreclosure crisis. We will implement smart, aggressive policies to reduce the number of preventable foreclosures by helping to reduce mortgage payments for economically stressed but responsible homeowners, while also reforming our bankruptcy laws and strengthening existing housing initiatives like Hope for Homeowners. Banks receiving support under the Emergency Economic Stabilization Act will be required to implement mortgage foreclosure mitigation programs. In addition to this action, the Federal Reserve has announced a $500B program of support, which is already having a significant beneficial impact in reducing the cost of new conforming mortgages. Together these efforts will constitute a major effort to address this critical problem.

In addition to these commitments, I would like to summarize some of the additional reforms we will be implementing.

1. Provide a Clear and Transparent Explanation for Investments:

For each investment, the Treasury will make public the amount of assistance provided, the value of the investment, the quantity and strike price of warrants received, and the schedule of required payments to the government.

For each investment, the Treasury will report on the terms or pricing of that investment compared to recent market transactions.

The above information will be posted as quickly as possible on the Treasury's website so that the American people readily can monitor the status of each investment.

2. Measure, Monitor and Track the Impact on Lending:

As a condition of federal assistance, healthy banks without major capital shortfalls will increase lending above baseline levels.

The Treasury will require detailed and timely information from recipients of government investments on their lending patterns broken down by category. Public companies will report this information quarterly in conjunction with the release of their 10Q reports.

The Treasury will report quarterly on overall lending activity and on the terms and availability of credit in the economy.

3. Impose Clear Conditions on Firms Receiving Government Support:

Require that executive compensation above a specified threshold amount be paid in restricted stock or similar form that cannot be liquidated or sold until the government has been repaid.

Prevent shareholders from being unduly rewarded at taxpayer expense. Payment of dividends by firms receiving support must be approved by their primary federal regulator. For firms receiving exceptional assistance, quarterly dividend payments will be restricted to $0.01 until the government has been repaid.

Preclude use of government funds to purchase healthy firms rather than to boost lending.

Ensure terms of investments are appropriately designed to promote early repayment and to encourage private capital to replace public investments as soon as economic conditions permit. Public assistance to the financial system will be temporary, not permanent.

4. Focus Support on Increasing the Flow of Credit:

The President will certify to Congress that any substantial new initiative under this program will contribute to forestalling a significant economic dislocation.

Implement a sweeping foreclosure mitigation plan for responsible families including helping to reduce mortgage payment for economically stressed but responsible homeowners, reforming our bankruptcy laws, and strengthening existing housing initiatives like Hope for Homeowners.

Undertake special efforts to restart lending to the small businesses responsible for over two-thirds of recent job creation.

Ensure the soundness of community banks throughout the country.

Limit assistance under the EESA to financial institutions eligible under that Act. Firms in the auto industry, which were provided assistance under the EESA, will only receive additional assistance in the context of a comprehensive restructuring designed to achieve long-term viability.

The incoming Obama Administration is committed to these undertakings. With these safeguards, it should be possible to improve the effectiveness of our financial stabilization efforts. As I stressed in my letter the other day, we must act with urgency to stabilize and repair the financial system and maintain the flow of credit to families and businesses to restore economic growth. While progress will take time, we are confident that, working closely with the Congress, we can secure America's future.

Sincerely,

LAWRENCE H. SUMMERS,
Director-designate,
National Economic Council.

Mr. DODD. So this is a tough vote to cast, as it was in September, in October. I listened that night as the majority leader asked every single Member to vote from their desk, something we do not do with great frequency. I listened to several of our colleagues who are no longer here, and I suspect that vote they cast in favor of that program had something to do with the outcome of their elections. I am sorry that happened to them, and it may have happened because of that vote.

But we are Senators. This is not a place just to come and give speeches. We happen to be here at one of the most critical times in our Nation's history. There are wars raging around the globe, and people are suffering at home. We have an obligation to them, and sometimes the decisions we make are not always the most popular ones in the moment they are given. We have learned that throughout history, too, that the Congresses in the past that have come before us, that have had the courage to stand up and face the realities of their day, have enjoyed the good judgement of history because they had the intestinal fortitude to do so.

There is not a single one of us in this Chamber who knows what is the right political vote. We all know we can gain favor overnight by casting a vote against this bill. My hope is there will be at least 50 of us who will stand up and cast a better vote—for your children and your grandchildren who will not know the outcome of your vote because they probably are not alive yet or could not read it. But someday they are going to look back and ask what we did at this critical time to make a difference in our Nation.

I believe we are in such a moment, we are in such a time. And it is not just this moment; there will be a series of them in the coming weeks and months. That is why you sought this office, I presume, to be a part of making history and making a difference.

I would urge my colleagues, no one is arguing perfection at all. No one can speak with any certainty at all about the outcome of all of this. We are actually in uncharted waters when it comes to these issues. But to sit back and do nothing—to do nothing—would be an indictment and a failure of responsibility.

So I am determined, as I know my colleagues will be, if this, in fact, goes forward, to monitor it, to insist upon accountability, to demand that we see lenders do what they should be doing, insisting that the leaders of these institutions not gouge or hoard and do everything possible to make sure our economy gets moving in the right direction.

On that note, Madam President, I urge my colleagues to reject this motion of disapproval and to give this new, young American President a chance to get our country back on its feet again, as he desperately wants to do, and to give America, once again, that sense of hope and optimism we deserve as a people.

Madam President, I yield the floor.

I suggest the absence of a quorum and ask unanimous consent that the time in the quorum call be jointly charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. The Presiding Officer and I have discussed this issue that is on the floor before us now, the next tranche of funds for the TARP program. All one has to do is listen to what TARP stands for: Toxic Assets—T-A—and your first instinct is: I don't want to go near it; I don't want to touch it; I don't want to have anything to do with it. I can tell my colleagues from the bottom of my heart that on 99 percent of issues here, I know what I am going to do pretty much immediately, because it is a clear path for me. I find it not that difficult to make that decision. However, the first vote we had on TARP after a phone call with Secretary Paulson and Ben Bernanke where they said: Our system is on the verge of economic collapse and if we don't get them the 700-plus billion dollars, our Nation would face economic ruin—I remember I was on that phone call with about 30 other Senators, and we were asked for a blank check by Henry Paulson. He wanted 700-plus billion dollars, he wanted it then, that minute, that second. He wanted no strings. He didn't want to tell the bankers they couldn't take a bonus payment. He didn't want to tell them executive pay had to be reasonable. He didn't want to tell them they would have to lend. He didn't want to use it for housing. It was a horrible conversation. We said: You are not getting a blank check and we are not going to do this until we put some strings on this.

Well, we put a few strings on it. We set up a commission to oversee it. I wish to say that Mr. Paulson, in my view, did not live up to the spirit of what this Senate and this Congress wanted him to live up to. What they did was not transparent. What they did did not ease the credit crisis. What they did was to kind of ignore the problem of the housing crisis which got us into this mess in the first place.

So let me be clear. Let me be clear to my constituents. If Henry Paulson was going to get this money, this second tranche of money, if the Bush administration was going to continue to dole out this money, I wouldn't give them $3, let alone $350 billion. I wouldn't give them 30 cents. I wouldn't give them 3 cents. However, I have to say to all of those within the sound of my voice, as someone who wound up voting for the first tranche and feeling badly about it ever since: When President-elect Obama tells us that it would be irresponsible for him, in the face of this worst crisis since the Great Depression, to not have the ability to tap into these funds; when he tells us that he is fearful that there could be a great crisis, that there could be an emergency; when he asks us to trust him on this and put our confidence in him and that he is going to use these funds in a different way, he is going to use these funds to address the housing crisis, and that he is going to be transparent; and to quote him, ''Every penny that they spend, the public will know about,'' I have a choice. I have a choice. I can say: Sorry, it was a horrible experience the first time and I am not going to give you this chance. I could say that. That is the easy thing. That is the easy vote. Voting no is the easy vote. Then I can go home and not worry about it. But how could I walk away from this President at this time? When he says to me and he says to us he needs a chance here, he needs this tool in his pocket to bring it out if he is in a crisis worse than the one now, I cannot walk away from that.

So I say to my constituents I will vote for this, and I will do it because of the assurances I have gotten from the President-elect himself that it will be different, that he will use these funds judiciously, that he needs to make sure he has this tool in his pocket. I hope my constituents understand that after hearing that from this President, who got more than 60 percent of the vote in my State, that I feel he deserves my trust at this time.

I thank the Chair and I thank Senator DODD.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. DEMINT. Madam President, a number of us—many Americans—are disappointed that the first act of this new Congress and this new President will be to add $350 billion more borrowing on the backs of our children and grandchildren. Madam President, $350 billion will be in addition to another $350 billion that we approved last year, as well as the nearly $1 trillion we are talking about in stimulus that will be coming up next year. This is not the change that many Americans had hoped for as we enter a new administration. Many of us are very disappointed in how the first round of troubled assets funds have been used.

It is clear that the intention of the incoming President and the new Democratic majority in Congress is to spend and borrow our way out of this recession. That doesn't work for families. It is not going to work for our country. More spending and borrowing and printing money may help Washington to grow and prosper, but it is certainly not going to help American families and businesses grow and prosper.

In this context that we are here today talking about this $350 billion in spending, with all respect to my colleague who just spoke, the easy thing to do is vote for more spending here in Washington. We find it is almost impossible to get people to vote for any cuts in spending. Yet, in spite of our calls for economic relief in an economic meltdown situation, Congress refuses to make any sacrifices on what we do here.

I am speaking to support this resolution of disapproval that has been offered by Senator VITTER, and I encourage all of my colleagues to take this responsible step to slow down this avalanche of spending and debt in our country.

Some are trying to make us feel a little better about this incredible amount of spending by saying: It is not real spending; the government is actually investing in debt of companies and intervening in companies and that we could get some of this money back. Frankly, it doesn't make me feel any better to know that this government is intervening in the private sector and every place it touches, it is going to bring new rules and regulations and make our economy less likely to operate as it should.

As we know, many who voted for this TARP bill last October now regret they did it. I didn't vote for it, but many who have, have issued press releases and spoken on this floor being very critical of how it was used and the fact that it hasn't worked. The promises that were made of how this money was going to be used were changed within a couple of weeks of the time the panic was issued here in Washington, and everyone was told they needed to vote for it or there would be worldwide economic calamity. Yet, almost before the ink was dry, they changed what they were going to do on the bill. I think for that reason, many do not trust this whole process of creating a slush fund for an administration, whether it be Republican or Democrat, to spend $700 billion.

We know what happened last fall. In October there was a crisis mentality. We were told we had to act immediately. Since then, in spite of all of the promises, the stock market has fallen nearly 25 percent and we are in the same credit problem situation that we had then. It is too much money to be throwing at the wall in hopes that it might work. I still hear at home that all of this money we put into the system has not worked its way into small business loans or loans for individuals, loans to buy cars, and we have no assurance at this point that an additional $350 billion will do that.

I would encourage all of my colleagues to look at where we are as a

Nation and the amount of debt we have. The amount of debt we have is now approaching a half a million dollars for every American family. It is very difficult to justify continuing to borrow money when all we are doing is treating the symptoms of the problem.

It is amazing to me that we are talking about throwing more money at a problem and we have yet to address the causes of the problem. We know the government made many mistakes with government-sponsored entities such as Fannie Mae and Freddie Mac. We have not corrected those problems in a way that will show any results. We know we require banks to make loans to people who can't afford to pay them back and we have not corrected those problems. If you talk to any businessman—and I have been a businessman most of my life—they are not looking for a short-term, knee-jerk solution; they need to have a predictable business environment in order to take risks and make investments and grow their business.

If we were looking at real solutions such as lowering our corporate tax rate, lowering capital gains that would encourage the nearly $11 trillion of private money that is now sitting on the sidelines—we are not talking about doing anything that is going to encourage this private money to get into the market, into the banking system that would create more liquidity. All we are doing is treating the symptoms, and there is no discussion of solving the problem.

I hope my colleagues will take the telephone calls and the e-mails they are getting from their constituents, as I am, seriously. Americans intuitively know that what we are doing here is wrong. Even if it worked for a few months, all of us know we have to pay it back, our children and our grandchildren for generations to come, with a lower standard of living, incredibly high taxes, and a devalued currency.

Madam President, I thank you for the opportunity to speak and I yield my time, as I again encourage my colleagues to vote for this resolution of disapproval, and let's figure out how to solve the real problem.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Madam President, I intend to vote against the resolution disapproving the release of the so-called second tranche of funds for the troubled asset relief program, or TARP, albeit with some reservations.

When I first decided to support the TARP last fall, I did so because I believed it was essential to preventing the collapse of our financial markets. I believed we were facing an emergency that would hurt every American unless Congress stepped in to provide temporary assistance to our financial system. I continue to believe this today. The conditions that called for the first one-half of the $700 billion authorized still exist today.

Last fall, credit stopped flowing. The root of the problem, and I think we all agree, is that the banks didn't know if their mortgage-backed securities had value. No one was willing to loan based upon that lack of knowledge. When they stopped lending to each other, they also stopped lending to businesses, large and small, and to ordinary Americans. People couldn't even get a loan for a car or a major appliance, and that condition persists throughout the country today to some degree. We learned very quickly that the dubious business model of Fannie Mae and Freddie Mac to securitize more and more mortgages was causing the entire system of credit and financing to seize up. Every American has been hurt by this market failure.

So the Secretary of the Treasury recommended that a $700 billion investment program that was flexible enough to change with market conditions and that would be focused on addressing the underlying problem in our financial market, namely, these mortgage-backed securities and the Treasury has deployed or committed the first half of the money—$350 billion—and is now asking for the second half. Unfortunately, as I said, the same circumstances that called for the initial $350 billion I believe pertain today.

For the most part, I have supported the Treasury's actions, although I wish that the conditions enabled the banks to be more aggressive in their lending. I don't view the program as a gift to the banking industry because the funds must be paid back with interest.

I did not and do not support their decision to use TARP funds to bail out the automobile industry, a purpose for which it was clearly not intended. I wish to make it clear, I always understood and believe that the full $700 billion would likely be needed to get our credit markets working again. That is why I support giving the Treasury Department the authorization for this second tranche of $350 billion, and it is why I will vote against the resolution to disapprove releasing the funds.

I have had many conversations with officials of the incoming Obama administration, and they promised me and all Republicans, for that matter, that they intend to dedicate the fund to shoring up the financial markets. They promised they will not use the funds to prop up failing companies outside of the remaining commitment to the automobile industry made by the Bush administration, my understanding about $4 billion, and the possibility of debtor possession financing under certain circumstances.

They promised greater transparency and accountability, and I intend to stay in close contact with them to see that these commitments are kept. I know this is not a popular decision, but I believe, in the long run, this program will help to keep our economy from collapsing. It will eventually help it to recover, and that will benefit every Arizonan and every American.

I wish to be clear that I am not asking any of my colleagues to join with me on this vote unless they have concluded, as I have, that we simply did not take a chance that we don't have the financial ability to deal with crises as they develop.

It is, unfortunately, my view that crises will continue to develop in the finance and banking sector of our economy so we are going to need the authority for the next $350 billion.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, I ask unanimous consent for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Madam President, I wish to make it clear from the beginning that no vote—well, there have been a few votes I have cast in my 24 years, now going on 25 years, that I have regretted. We are all human. We make mistakes. We try to get the best information we can, and then we vote.

Last fall, the information we got is we were on the verge of collapse, we had to do something, we had to get this TARP bill through, so I voted for it.

Then I became more and more dismayed as the weeks went by and the months now to see how it was mishandled completely, not in accordance with what we in Congress were told they were going to do. They said they were going to purchase toxic assets. But then Secretary Paulson and his friends did the old bait and switch. Instead of doing that, they pumped tens of billions of dollars into purchasing equity in major banks.

I said many times it is sort of like Secretary Paulson and his buddies doing all for whom I call the graduates of Goldman Sachs, sort of taking care of their buddies and bailing out their buddies in the banking industry.

So when this new TARP came up, I must tell you I was adamantly opposed: no more of this, we are not going to put any more money out there like this. Then I began discussions with the new administration coming in. They have come up and talked with us a number of times. I had about three phone calls last night with my good friend, Senator JOE BIDEN, who will be our next Vice President.

He said: What is troubling you?

I said: What is troubling me is that no one seems to be responsible for what happened to the first 350. You have Paulson, but then there is President Bush, and somebody else seems to be responsible.

I said: Secondly, they didn't use the money for what we wanted and there is no transparency. We don't know what happened to a lot of it. And I said: Third, there has to be more of this money put out there for middle-class America. It has to be put out there for them—not this trickle down where you put it in investment banks—but put it down below so it can percolate up. He talked with the President-elect. We had three phone calls last evening.

I see a letter from Lawrence Summers was sent up to us today which reiterates what soon-to-be Vice President

BIDEN said to me last night. First, no substantial amount of money will go out of this fund unless it is signed off by President Barack Obama. He has to sign off on it. So we know where the buck stops.

Second, the way the system is set up, Vice President JOE BIDEN will be in there, he will be a part of this process, and the President will rely on him for his input into this process. I know JOE BIDEN. There has never been a stronger fighter for middle-class America and for working families than JOE BIDEN. So that reassures me we have another source of input into this effort.

And third, they are going to make it absolutely transparent and put it out for everyone to see where they are going.

Again, there were a couple of other things they agreed to do. No. 1, executive compensation cannot go above a certain threshold until the Government has been repaid. That is good.

No. 2, shareholders will not be rewarded until the Government has been repaid. For firms receiving exceptional assistance, quarterly dividend payments will be restricted to 1 penny per quarter until the taxpayers are repaid. That is pretty darn reassuring to me.

And now this: preclude the use of Government funds to purchase healthy firms rather than to boost lending. That is exactly what happened with the last 350.

I find myself now in a position of saying: Look, we still have problems out there, we have credit problems out there. We didn't answer these problems. We have a new team. Barack Obama—and I served with him in the Senate as all of us have—said time and time again—and I know where he is coming from—that we have to help middle-class America, that we can't just put the money in at the top anymore. JOE BIDEN has said the same things.

With these assurances that there is a new team down there, now I am going to be able to support the release of the next $350 billion.

I close with this: I felt a little bit, after the last one, like Charlie Brown and Lucy—she is always pulling the football out from under Charlie Brown. I said: That is not going to happen to me again. Well, Lucy is not holding the ball now. We have someone new holding that ball, someone by the name of Barack Obama and JOE BIDEN and their team.

I am going to put my trust in them based on this letter that has been sent up, which I understand was made part of the RECORD earlier today. With those assurances that we can get that money out, down to homeowners, to help on foreclosures, to help out some of our smaller banks with their credit problems, I see my way clear now to vote to make sure we get this money released for the new administration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Madam President, I rise to support the joint resolution of disapproval which would prevent, as you know, the allocation of another $350 billion to the Treasury's flawed Troubled Asset Relief Program.

The Treasury Department's implementation of TARP has been a bureaucratic fiasco. In the years to come, I believe it will be considered a textbook case in our business schools on how not to conduct fiscal policy.

The Treasury Department has never had a clear plan on how to respond to the financial crisis or how TARP funds could best be utilized. It told Congress just a few months ago that it would spend TARP funds one way and then spent them another. Rather than establish a clear plan and then use TARP funds to implement it, Treasury has recklessly used TARP funds to bail out big Wall Street firms threatened with bankruptcy.

TARP has proven to be helpful for rescuing Wall Street bondholders but has done little for the U.S. economy, small business, and average Americans.

Treasury's approach to TARP has been so undisciplined that its commitments already exceed the $350 billion Congress authorized it to spend.

Further evidence of the erratic implementation of TARP is the fact that Treasury has even failed to comply with the statutory requirements for requesting the additional $350 billion in TARP funds. The statute clearly requires the Treasury Secretary to provide Congress with a detailed plan on how it will spend the additional funds. There is no plan. There is nothing to review. There is no way we can say to the American people this afternoon that we have conducted in the Senate a thoughtful, thorough examination of how this money is going to be spent because there is, quite literally, nothing to examine.

If Congress cannot hold Treasury accountable for providing a simple plan on how it will use an additional $350 billion, why should the American people today have any confidence Congress can hold Treasury accountable on how it will spend it?

As you know, I opposed the original TARP legislation because I did not believe the TARP program was based on a well-thought-out plan. During our consideration of that legislation in the Senate, I pointed out to some of my colleagues some clear and serious problems with purchasing troubled assets as Treasury proposed to do at that time.

The Treasury Department assured us—assured us—told us unequivocally it could address the financial crisis by establishing TARP to purchase troubled assets from banks using a reverse mortgage auction.

Is that what the initial $350 billion was used for? The answer is no. After further examination, the Treasury Secretary decided that purchasing troubled assets was not a feasible plan.

It is now clear the Secretary of the Treasury did not have a real plan when he proposed TARP. Rather, he had a hastily conceived notion that, it turned out, was impossible to implement. Because there was so little thought put into the original plan, we have spent $350 billion and the TARP has failed to stem the economic downturn and hundreds of thousands of people have lost their jobs.

We should not, this afternoon, repeat our mistake—but we will—by granting the Treasury the additional $350 billion without first determining how to best use those funds.

I think it is time the Congress stop and think and take the time to devise an effective solution. First, we should demand that the Treasury Secretary provide a plan on how the $350 billion will be used. That is the least we can do. This is already required, as I said, under the TARP legislation, which directs the Secretary to submit ''a written report detailing the plan of the Secretary.''

What the Secretary has submitted is not only legally insufficient, it is completely devoid of substance. This should not be acceptable to the Senate.

Second, the Banking Committee should hold extensive hearings on TARP and alternative ways of addressing our financial problems. It should also hold hearings on how previously committed TARP funds have been spent, who benefited, who is accountable. The Treasury Secretary, whoever it may be, should appear before Congress and tell us exactly how he wants to use the funds. This is especially important now that a new administration will be responsible for spending it.

Madam President, $350 billion is an enormous amount of money to me. I find it hard to believe we would even consider granting any public official the authority to spend such an amount without, at the very least, requiring him to appear before us and explain how he will use it. If the majority and the new administration wish to demonstrate that there is a new climate of accountability in Washington, this would be an opportune place to start.

I believe the choice is clear. If you support accountability, transparency, the only vote is to support the joint resolution to deny the $350 billion to the Treasury.

The American people, I believe, are rightly outraged at the way Congress and the Treasury have recklessly spent billions of TARP dollars. It is time Congress looks at the financial crisis with the seriousness and diligence the American people demand, expect, and reserve.

The last time we considered how to respond to the financial crisis, we panicked and passed the TARP bill. We now have a second chance—though I believe we will throw it away—to fulfill our responsibilities to the American people. I hope we will support the motion to disapprove. I urge my colleagues to vote in favor of the joint resolution of disapproval.

I yield the floor.

Mrs. MURRAY. Madam President, next week, we will inaugurate a new Commander in Chief. It is a time of hope and opportunity for people across this country.

While many Americans are hopeful today, too many of them are hurting, and they cannot wait another day for the change they have been promised. People in my home State of Washington are feeling the pain.

When I held an economic roundtable in Everett, WA, earlier in December, the room was filled to overflowing with people who came out in the middle of the day to express their concerns and to listen to business owners and families and community members talk about the struggles they are facing.

Unemployment in my State, like States across the country, is at record highs. Businesses, big and small, are struggling to meet their payroll. And too many families are still wondering how they are going to stay in their homes or get a loan to pay for school for their kids.

We stood here on this floor almost 3 months ago debating whether to approve the President's request for economic rescue funds. At that time, communities across my State were hurting. Families were struggling to pay for their groceries, to afford health care, and wondering how they were going to pay for college.

My constituents were angry they were being asked to fork over their tax dollars to cover the consequences of years of reckless abandon on Wall Street and the failure of this administration to regulate or rein in their folly.

Here we are today, 3 months later, and my communities and my families are still hurting. Many people are still struggling with health care and education and foreclosures. Just this week, the people of my State heard Boeing announce plans to lay off thousands of workers in the State of Washington. The Seattle PI—a newspaper that thousands have welcomed into their homes every day—was put up for sale. And today we learn that foreclosures in our most populated county have spiked by 88 percent over last year.

My constituents live 2,500 miles away from here, and they are listening to our debate here today. They are asking why on Earth Congress would approve billions of dollars more after the way the last chunk was handled.

The rescue funds we approved in October prevented economic collapse, but regular people are still struggling. They say they have not felt the impact of these funds on their job security, on their incomes, or their ability to stay in their homes.

I have to say, I understand their frustration, and I share their concerns. I am angry too. I am angry about the lack of transparency into how banks are using these dollars. I, in fact, picked up the phone and called Secretary Paulson to express my outrage when I read stories of those lavish parties held by companies that received our precious rescue dollars.

There has not been enough accountability or transparency to date. That must change. There has not been enough benefit to regular families and small business owners and homeowners. That must change. When I voted in favor of these funds in October, I said it was not a cure-all but an attempt to keep an already very bad situation from getting much worse.

It takes both investment and honesty to get our economy back on track. Unfortunately, we have not had much of either. The disbursement of these funds was the current administration's entire plan to improve the economy. But their philosophy was like using a Band-Aid when the economy needed surgery.

The administration will change next week, but the challenges facing our Nation will not. I spoke with President-elect Obama earlier this week, and I expressed my concerns about how the economic rescue funds had been used up to this point. He agreed.

Today, I met with Timothy Geithner, the President-elect's nominee to head the Treasury Department. He gave me his assurances that transparency and accountability will be improved and that there will be more done to help responsible homeowners avoid foreclosure.

With those assurances, I believe the American people are finally going to get the investment and the honesty they deserve. President-elect Obama is inheriting an economic crisis. That is a very tough place to start. But he told me, in order to move ahead and focus on America's families and businesses, we have to ensure the stability of our financial markets. The President-elect has assured me that while he believes these funds are important, they are only one part of his plan to get America back on track.

So I said yes to those funds today because I believe we can move forward, and I want our new President to have the ability to focus on our economic recovery. The President-elect and Members of Congress are committed to ensuring a full and accurate accounting of how the Treasury Department has allocated the funds spent to date and going forward, and we will ensure that assistance does not just flow to large financial institutions, but will be available to our community banks and small businesses as well. We will take a hard look at the factors that brought us to this point and address them.

Our new President has promised to work with Congress to pass and implement new regulatory measures to better protect consumers and businesses and investors and to ensure that our taxpayers are never again put in this terrible position. We will work with this new administration to quickly implement aggressive policies to reduce preventable foreclosures for responsible homeowners.

This crisis started in the housing market, and we will not dig ourselves out without overhauling the system. I will not be done with this process until Americans who have lost their jobs and their homes are back on their feet.

People of my State know what it will take to get America working again, and so do I. We have to value our workforce and find a way to make health care affordable and accessible. We have to invest in research and development and reward American innovation. We have to implement a smart forward-looking energy policy that ends our addiction to foreign oil once and for all. We have to invest in our roads and our bridges and our highways and the projects that will pave the way for further economic growth. We have to recognize that education is a priority. We cannot fill those great jobs of the future without an educated and skilled workforce.

It is time to put America's families first. It is time to restore their faith that government works for, not against, them. Americans who are hurting today will not see a change overnight. There is a long, hard path ahead of us, but the American dream of owning a home or running a business or going to college is still alive in communities across this country. To pull back now and allow our credit markets to freeze would tie the hands of an incoming administration with plans to invest in America again and potentially cause lasting economic harm.

This is just one step in the process. We will provide these rescue funds to stabilize our financial markets, but we will also implement strict regulatory reforms and pass an economic recovery package that invests in our communities and puts Americans back to work.

I grew up in a country that was there for my family in very hard times. When my father got sick and could no longer work while raising seven kids, there were Pell grants and student loans and food stamps when my family needed them. I will always remember that. That is why I will always work to make sure our country is there now for today's American families.

I supported this rescue package today because we have to keep our country moving forward, and our incoming President deserves the support of Congress to make that happen.

Thank you, Madam President. I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Madam President, to a certain extent I wish to follow up precisely on the remarks the Senator from Washington made at the end of her speech.

I, too, have been disappointed with the deployment of the first half of the TARP money, and I supported that deployment in the hopes that it would stabilize the marketplace, ease credit for our customers, and help the housing market. While it probably did stabilize the banking system, there has yet to be a loosening of credit and there has yet to be a recovery of the housing market.

Looking ahead, we continue to look at suggestions that throw money at the problem rather than getting to the root cause of the problem. In fact, with the best of intentions, I think people are struggling to meet the symptoms of a serious illness rather than treat the illness. I wish to direct my remarks tonight to that illness.

The illness, as the Senator from Washington referred to, is the collapse of the U.S. housing market which began in the last quarter of 2007. In the first quarter of 2008, in January, I introduced a housing tax credit of up to $15,000 for the purchase of any house that was standing vacant or in foreclosure. I did it for a couple of reasons. No. 1, I was in the real estate business for 33 years, and I was in it in 1974, a year in which we had a housing collapse worse than the current situation. While many people think this one is bad, it is not as bad as 1974.

In December of 1974, there was a 3-year supply of unsold, standing new houses in the United States of America. That is a catastrophic inventory. We currently have a supply of about 11 to 13 months, depending on the State. That is not a good market, but it is not 36 months, which is a horrible market.

President Gerald Ford, a Republican, and a Democratic Congress, came together and passed a $2,000 tax credit to any family who bought and occupied one of those standing homes. Within 1 year's time, which was the limited time of the tax credit, two-thirds of the housing inventory on the market was sold, values stopped declining and started improving, and we had a stabilization of our economy, the end of a recessionary period, and the beginning of prosperity.

I come here tonight because about an hour and a half ago I dropped a bill known as Fix Housing First, an effort for me and others in this body to rekindle that debate of last January. Now, last year, we did pass a housing tax credit, but it was a now-you-see-it/now-you-don't approach. It was a first-time home buyer credit of $7,500 that was a refundable loan, interest free, because over 15 years you would pay the credit back to the Government in the form of income taxes. It was an incentive, but it was weak. It was not bold.

The tax credit we introduced last year was scored by CBO at $11.4 billion, and Finance believed at that time—and maybe rightfully so—that was too big a price to pay and too expensive. Well, because we didn't do it, in October of this year, we approved $750 billion to address the symptoms of the problem, which is the failure of the housing market.

I had the privilege yesterday of meeting with some of President-elect Obama's team, including Rahm Emanuel, Dr. Summers, and others, and told them precisely what I am saying on the floor of the Senate today; that is, I hope they will embrace this concept of incentivizing the housing market so we can stabilize values, stop the continuing erosion of equity, and begin to reflate—not inflate but reflate—the housing market.

In America today, 20 percent of the houses are underwater, meaning there is more owed on them than they are worth. That means equity lines of credit with our banks are in default. It means students going to college are losing the money their parents had for tuition. It means there is not enough liquidity in households anymore or credit availability to make purchases of durable goods that are important to our system, and our system is continuing to feed in a downward spiral on the illiquidity, the lack of equity, and the lack of a marketplace for housing.

I was in this business for a long time, and I called 10 people who worked for me a number of years ago last weekend in Atlanta. I asked them, I said: What is going on in the market? Tell me what the buyers are saying or are there any buyers? I talked to a lady by the name of Glennis Beacham.

She said: Johnny, I had nine people come to my open house last weekend, and that is a good crowd for an open house in this marketplace. Every one of them had the money and they wanted to buy, but they were looking for two things: a short sale, which means somebody selling their house for less than is owed on it and getting a discount from the lender, which means it is a downward price or they are looking for somebody whose house is going into foreclosure that they think they can steal. They don't want to even make an offer on the 80 percent of people's houses in this country who are making their payments, aren't in default, aren't in foreclosure, but might need to sell. So the marketplace has died.

Now, Fix Housing First proposes the following: Repeal the $7,500 tax credit we passed last year, which is not being used, by the way. That credit has not been used to any extent whatsoever. Replace it with a tax credit that will go from $10,000 to $22,000 depending on the formula. It would be a monetizeable tax credit. What that means is this: you make the tax credit good for this year—January 1 through December 31 of 2009—but you allow the monetization or the claiming of that credit against the 2008 income taxes of that family. The 2008 income taxes come due in April of this year, the 15th. We all know that. By allowing the credit to be taken against 2008 income taxes, you can monetize that money at the closing, use it as a part of the downpayment, and immediately incentivize the marketplace. Is that a little costly? Sure. Is it something we would rather not do? Probably. But what are we going to do? Watch the marketplace go down to where four out of every five houses are underwater? Watch sales go down to where there is no viable housing market in this country? It has not stopped spiraling. It is continuing, and everything feeds off of it.

I don't wish to belabor this point, but I wish to talk for the American people, the people of Georgia. The community bankers are hamstrung right now. Most of their investments are in real estate, residential construction, and acquisition and development loans. With no marketplace to buy the lots or buy the houses, they have no cashflow coming in to service the loans. They are deteriorating in terms of their value. Americans who have been transferred who are making their payments, who have a viable house, who have to sell it to move to the next city of choice, there is no marketplace to buy that house, so that is stagnating.

Consumer products, take carpets, for example. The State of Georgia, the County of Whitfield, the City of Dalton produces about 85 percent of the domestic carpet in the United States of America. It is shut down. The mills are shut down. Why? People aren't recarpeting. They aren't redoing their houses. New houses aren't selling. The market is gone. I could go on and on with durable products made in the United States of America whose industries are now in trouble because the housing market has taken a severe hit over a protracted period of time.

So my plea to the President-elect, to my friends on both sides of the aisle, to the Members of the United States House of Representatives, as we are deploying countless billions of dollars to react to problems that are manifesting because of a failed housing market and mistakes that were made in the past, let's put some money out there to incentivize Mr. and Ms. America who want the American dream to buy a home, to buy one for their family, occupy it as their residence, and give them a tax credit for doing it. It is a small price for the Government to pay to begin to restore the industry that got us to where we are and will lead us out of these dangerous and dark times.

So I come tonight on behalf of the homeowners of the Presiding Officer's State of Florida and mine, the community bankers, the realtors, the homebuilders, the fix-it people, the durable goods producers, the building supply makers, the landscapers—every job that has been lost and gone, in some cases forever, because the housing market in this country has collapsed.

We have learned our lesson for loose underwriting. We have learned our lesson from loaning money to people who weren't qualified to borrow. We have paid a terrible price for that lesson, both the country and the people. It is time for us to do what we know we should have done: have quality underwriting, available credit, but have accountability in our lending system, make sure values are appraised right, underwriting is done right, and credit is available but people are qualified. If we can do that and incentivize people to come back because of the tax credit, we can solve this problem.

I don't want to oversimplify the gravity of the problem we face, but the housing market led us in; the housing market will lead us out. It is time for us to fix housing first. Our failure to do so will cost us a lot more than $700 billion of our taxpayers' money, and countless Americans who shouldn't will lose their homes, lose their jobs, and lose their faith in the greatest country on the face of this Earth.

I ask my colleagues to study this recommendation. I hope the President-elect will embrace it. I hope, quickly, we can fix housing first in the United States of America.

Mr. ENZI. Madam President, for the past 2 weeks, I have been patiently waiting for what everyone in this chamber knew was inevitable. When the Senate passed the Emergency Economic Stabilization Act on October 1, 2008, we included a stipulation allowing the disbursement of the final $350 billion only upon the President's request to Congress, and after Congress had been given an opportunity to pass a resolution of disapproval preventing release of the funds. We did this to provide a chance to thoroughly assess the program, make changes, and get our country's economy on the right track again.

Although I voted against the act that created the Troubled Asset Relief Program, the TARP, I was pleased that this provision was added into the final bill. Many of my colleagues and I thought, optimistically, that the TARP would work better than we had predicted. It was even possible, some noted, that we would not have to spend the entire $350 billion final disbursement. Even if it was necessary to approve the additional funds, we would be provided the opportunity to evaluate the program and make it more effective in a rapidly changing market.

So in preparation for the President's request, I have been keeping track of the market conditions, following the headlines, and watching the stock market. Yesterday, the Dow Jones industrial average closed down almost 250 points. This is the lowest the market has closed in 2009, and the biggest drop since December 1, 2008.

Jobless claims have increased since the holiday slowdown. The U.S. Department of Labor statistics on unemployment released today indicate that the recession is getting worse and that those companies we were trying to save with the TARP program are cutting more workers than predicted in order to stay afloat. These are the same workers who have seen a lifetime of retirement earnings shrink to nothing. Others have lost their homes, their most stable financial asset in past years, due to rising unemployment and a frozen credit market. For those Americans without a job, they face dismal employment prospects as companies continue to cut their workforces to stay in the black.

The companies that employ them are not in any better shape. Headlines this week warned that even the largest financial institutions were forced to take drastic measures to remain viable. For example: "Citigroup Ready to Shrink Itself by a Third." "Bank of America to get Billions in U.S. Aid, Can't close deal for Ailing Merrill Lynch." These developments occur despite $350 billion of taxpayer money already spent, and billions more guaranteed through the Federal Reserve.

After more than 3 months, it is time we take a detailed look at the TARP program and ask ourselves, "Are American taxpayers getting what they paid for?" Based on my observations, it is clear that we are not. Our economy appears to be in no better shape than on October 1, 2008, when we passed this massive $700 billion emergency bailout, and today the Senate is poised and seemingly eager to send more money out the door. We are throwing good money after bad money, and expecting different results. But without substantial changes to the TARP and measurable, attainable goals, there is no chance of success for this program.

Let's be clear, this program has not worked. America is still in the grips of a frozen credit market, and the U.S. Treasury continues to operate this program in a manner never intended by the Congress when we created the TARP. In fact, upon passage of the act, Treasury gave it a different name. The TARP became the Capital Purchase Program and instead of buying troubled assets, the Treasury began buying stock directly from the market. Yet when Congress has an opportunity to put this program back on track, some of my colleagues would prefer to simply give Treasury more money to operate a $700 billion slush fund as it pleases. This is not the time to encourage blind spending and ignore the fundamental problems with our country's capital markets. Now is the time to modernize the TARP, add accountability and transparency, and hold Treasury to its commitment to operate this program the way we intended.

It will take more than blind spending to get our economy back on track. That is why I support the resolution of disapproval. My colleagues in the Senate must take a critical look at this program, measure its progress and setbacks, and make changes that will put this money where it is most needed. It is obvious that the first $350 billion has not worked, so why are we rewarding this failure with more money? Instead, let's work on a reform package that will hold Treasury's feet to the fire and get credit flowing through our markets again. We need a program that will put our money to work building construction projects, hiring employees, and operating small and large businesses across the country. We need a program that will bring confidence back to the market. This program must be temporary, and provide a reasonable chance of success for the businesses and the taxpayers who are participating in it. It also must be accountable and transparent. The American taxpayers should know what they are getting with their investment, and to date, they do not.

I am willing to work with my colleagues on a reform package that will do all of these things. However, the first step must be to put the brakes on this reckless spending. Doing so will provide us with the opportunity to make the program better, and fulfill our obligation to the taxpayers funding this program with their hard-earned money.

I strongly urge my colleagues to vote in support of the resolution of disapproval.

Mr. LEVIN. Madam. President, we are in a crisis unparalleled since the Great Depression. We are on a deeply troubling path, marked by credit freezes, foreclosures, rising unemployment, and declining purchasing power. And that path, in the autumn of last year, appeared to be heading toward a cliff. We were fearful of what might happen if we stood idle and allowed our economy to fall off that cliff.

The initial Emergency Economic Stabilization Act proposal put forth by the White House and the Treasury Department was unacceptable. It was essentially a blank check for $700 billion to be spent however they pleased. There were no provisions for oversight, no accountability, no mechanism to ensure that the funds were well-spent. Congress did significant work to create a more acceptable proposal, including dividing the recovery funds into two pieces, the second of which could be disapproved by Congress.

In the months since we passed that legislation, I have been deeply disappointed in the way the administration has handled the program. Although we required the Treasury Department to maximize assistance for homeowners and work to minimize foreclosures, no systematic foreclosure mitigation program has been adopted, let alone implemented. Although the goal of the legislation was to unfreeze credit markets, the Treasury Department did not take reasonable steps to ensure that a significant portion of the billions of dollars distributed to banks across the country were used for this purpose.

Indeed, in one specific example, one bank that received over $2 billion in TARP funding has been reducing the lines of credit for Michigan businesses that have been longtime customers of the bank without a single default. I am hearing similar accounts from across Michigan and throughout the Nation. This slashing of credit by banks receiving federal funds is the opposite of what TARP was intended to do.

Many may recall that the originally stated purpose of the Troubled Asset Relief Program was to focus on purchasing "toxic" assets from financial institutions. While Congress set significant disclosure and oversight requirements to monitor these purchases, we also provided flexibility for the Treasury Department to respond rapidly to the developing crisis. Treasury decided that the originally conceived TARP program would not suffice to save our economy from the approaching cliff, so the administration turned to capital injections. The administration does not know what this massive infusion of capital has done to mitigate the economic crisis. They established no metrics to judge whether the program is working. Recipients of funds have not been required to set benchmarks as to how the funds should be used, let alone track, report to regulators or disclose to the public what they are doing with the funds.

Many of the financial institutions that have received TARP funds continue to give out annual performance bonuses, many of which are larger than most hard-working Americans earn in decades of labor. And, as we have seen in the front pages of national papers this week, there are real concerns about the long-term viability of some of the banks receiving funds, yet those funds have gone out the door without requiring any written plan from the banks as to how they will continue operations or repay the taxpayers.

Even as the administration gave financial institutions carte blanche with few, if any, questions asked, they first refused to provide TARP funds to our domestic automakers and then did so only with significant oversight and restructuring requirements. The double standard here is dramatic.

Because of all these shortcomings in the use and oversight of the first $350 billion of TARP funds, I would oppose the release of the second $350 billion if those funds were to be used as sloppily.

Yesterday I sent a letter to National Economic Council Director-designate Dr. Larry Summers seeking further and more detailed assurances. I will ask to have that letter printed in the RECORD. I believe the assurances I requested are commonsense positions that are essential to a well-run, effective stabilization plan that protects taxpayers money. The assurances I requested are:

No. 1, does the incoming Obama administration assure Congress that TARP recipients will be required by the Treasury to track and report their use of TARP funds and that this information will be made available to the Congress and the public?

No. 2, does the incoming Obama administration assure Congress that recipients of ''exceptional assistance'' will be subject to at least the same compensation limits as have been placed on recipients of funds under the TARP's Automotive Industry Financing Program?

No. 3, does the incoming Obama administration assure Congress that Treasury will obtain agreements from TARP recipients on benchmarks the recipient is required to meet so as to advance the purposes of TARP?

No. 4, does the incoming Obama administration assure Congress that it will ensure that banks use a significant portion of TARP funds to extend credit?

No. 5, does the incoming Obama administration assure Congress that a significant portion of the remaining TARP funds will be used to carry out a comprehensive plan to prevent and mitigate foreclosures on residential mortgages?

No. 6, does the incoming Obama administration assure Congress that banks which receive ''exceptional assistance'' will be required to adopt a systematic residential mortgage mitigation program?

No. 7, does the incoming Obama administration assure Congress that recipients of assistance under TARP and other Federal programs will be required to develop and submit a written financial viability plan just as was required of recipients of funds under the Automotive Industry Financing Program?

Just a couple of hours ago, we received a response from Dr. Summers addressed to Senator REID. The letter goes a long way to providing positive answers to most of my questions. To summarize a few of the points:

No. 1, TARP recipients will have to track and report their lending patterns and report this information to the public.

No. 2, healthy banks without major capital shortfalls will have to increase lending above baseline levels.

No. 3, they pledge to commit $50 to $100 billion of the TARP funds to address the foreclosure crisis, and banks receiving TARP support will be required to implement mortgage foreclosure mitigation programs.

I am disappointed that the letter did not provide assurances that banks and other financial institutions receiving TARP funds will be subject to the same rigorous standards with respect to executive compensation and the submission of viability plans that Congress and the Bush administration demanded of the auto companies. I have responded to Dr. Summers letting him know I look forward to hearing his response to the balance of my suggestions. I will ask to have that letter printed in the RECORD.

On a related matter, in December, the Bush administration committed to provide $13.4 billion in funds from the TARP to facilitate the restructuring of our American auto manufacturers and said that an additional $4 billion would be available in February. Of necessity, this additional $4 billion must come from the second $350 billion, and we have been assured that will happen. In return for this much-needed bridge financing, the domestic auto manufacturers agreed in December to terms and conditions that went way beyond anything required of other recipients of TARP funding. There was broad support for these loans for the domestic auto industry because there was broad recognition that this industry is the foundation of our Nation's manufacturing sector and industrial base and a recognition that its failure was simply unacceptable. We must complete the job started in December and ensure that the additional funding necessary for the financial health of this critical U.S. industry is provided in a timely manner. Support from the Federal Government is essential if the energy efficient green vehicles of the future will be produced by American companies and American workers. Other auto-producing countries are acting to assure the survival of their industries. So must we.

Perhaps because of the current administration's poor record of accomplishment with the first $350 billion and the lack of accountability with which the distribution of those funds has been carried out, our economic position today is not discernibly stronger than it was 3 months ago. We are threatened by further bank failures, creditworthy consumers and businesses are having trouble accessing credit, and it appears that if we do not act our economy may decline even further.

As was the case 3 months ago, it would be irresponsible to stand by and do nothing as our economy heads toward a cliff. It would be negligent to tie the hands of the incoming administration because of the outgoing administration's deficiencies.

I am convinced by what we know of continuing bank losses and the hurting credit markets that it would be irresponsible to refuse the President this weapon for economic recovery. Bringing about economic stabilization and restoring a healthy economy will not be an easy task. We are contracting from an unprecedented and irresponsible boom in lending over the past years, which led financial institutions to make loans to borrowers who could not repay them. Unfortunately, in the aftermath, the pendulum is swinging the other way and many banks are fearful of making any loans at all, even to creditworthy borrowers. It is my hope that with more TARP funds available, reporting requirements, and established goals, banks will resume making responsible loans. Part of this will require that Treasury focus not just on the banks that many deem ''too big to fail'' but also on community and independent banks that are the financial backbone of many small towns through their support of local businesses and families.

Coupled with the stimulus package Congress will consider in the next month and then a much needed financial regulatory overhaul in the spring, we can begin to turn away from the deregulatory disaster of recent years and return to a healthy economy with cops on the beat to help restore confidence in our financial system and prevent another financial disaster like the one we find ourselves in now.

Madam President, I ask unanimous consent to have the letters to which I referred printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. SENATE,
Washington, DC, January 14, 2009.

LAWRENCE SUMMERS,
Director-designate, National Economic Council, Washington, DC.

DEAR DR. LARRY: Before Congress votes on whether to release the second $350 billion in TARP funds, I would like to receive the following assurances regarding federal assistance under TARP and other programs to supplement the assurances you provided in the letter to the Congressional leadership dated January 12, 2009.

1. The second report of the Congressional Oversight Panel, issued January 9, 2009, states: ''The Panel still does not know what the banks are doing with taxpayer money. Treasury places substantial emphasis in its December 30 letter on the importance of restoring confidence in the marketplace. So long as investors and customers are uncertain about how taxpayer funds are being used, the question both the health and the sound management of all financial institutions. The recent refusal of certain private financial institutions to provide any accounting of how they are using taxpayer money undermines public confidence. For Treasury to advance funds to these institutions without requiring more transparency further erodes the very confidence Treasury seeks to restore.''

Your letter states that the Treasury Department will ''monitor, measure and track what is happening to lending by recipients of our financial rescue assistance.''

Does the incoming Obama Administration assure Congress that TARP recipients will be required by the Treasury to track and report their use of TARP funds, and that this information will be made available to the Congress and the public?

2. The Summers letter states that recipients of ''exceptional assistance'' will be ''subject to tough but sensible conditions that limit executive compensation until taxpayer money is paid back, ban dividend payments beyond de minimis amounts, and put limits on stock buybacks and the acquisition of already financially strong companies.''

Does the incoming Obama Administration assure Congress that recipients of ''exceptional assistance'' will be subject to at least the same compensation limits as have been placed on recipients of funds under the TARP's Automotive Industry Financing Program?

3. Does the incoming Obama Administration assure Congress that Treasury will obtain agreements from TARP recipients on benchmarks the recipient is required to meet so as to advance the purposes of TARP?

4. Does the incoming Obama Administration assure Congress that it will ensure that banks use a significant portion of TARP funds to extend credit?

5. Does the incoming Obama Administration assure Congress that a significant portion of the remaining TARP funds will be used to carry out a comprehensive plan to prevent and mitigate foreclosures on residential mortgages?

6. Does the incoming Obama Administration assure Congress that banks which receive ''exceptional assistance'' will be required to adopt a systematic residential mortgage mitigation program?

7. Does the incoming Obama Administration assure Congress that recipients of assistance under TARP and other federal programs will be required to develop and submit a written financial viability plan just as was required of recipients of funds under the Automotive Industry Financing Program?

Thank you for your prompt response on this important matter.

Sincerely,

CARL LEVIN.

U.S. SENATE,
Washington, DC, January 15, 2009.

Dr. LAWRENCE H. SUMMERS,
Director-designate,
National Economic Council.

DEAR LARRY: Thank you for your letter to Senator Reid today outlining additional reforms you will adopt in implementing the Emergency Economic Stabilization Act of 2008. These reforms address many of the suggestions I made in my letter to you of January 14. I look forward to hearing your response to the balance of my suggestions.

I appreciated the assurances I received in Tuesday's Democratic Caucus from the President-elect and you that the new Administration will provide the additional $4 billion for loans from TARP Tranche 2 to the U.S. auto industry in February in accordance with the plan announced by the Bush Administration.

Sincerely,

CARL LEVIN.

Mr. FEINGOLD. Madam President, I will support the resolution disapproving the remaining $350 billion in funding for the financial bailout. While President-elect Obama's team has signaled some significant improvements in the actual administration of these funds, the three fundamental issues that caused me to oppose the bailout initially remain.

The bailout continues to be a huge strain on our budget, with no provision for offsetting its cost to the Federal budget—a cost that will be passed on to our children and grandchildren in the form of increased debt. There is no requirement to help families facing foreclosures on their homes, one of the root causes of the housing crisis. And finally it fails to reform the deeply flawed regulatory structure that permitted the crisis to arise in the first place. While we have heard promises of future legislation, the hammer we hold over the financial sector is the bailout funding. Once that funding is approved, we have lost the leverage needed to enact the tough reforms that will get the financial sector to clean up its act.

As I had hoped, a small portion of the financial bailout funds were used to provide temporary help for our automakers and help retain 3 million manufacturing jobs in this country. While I opposed the financial bailout for the reasons I have just spelled out, given that those funds were approved I felt it only right that a tiny percentage of them be used to help millions of working families whose livelihoods depend on a healthy automobile industry. Despite my concerns, I fully expect this second $350 billion for the financial bailout to be approved, and if it is, I certainly expect that the promise of additional financial backing for the automobile industry, and the millions of jobs associated with it, will be forthcoming.

As I have noted before, while some of the troubles of the automobile industry were of their own making, a great many of the problems facing domestic automakers are the direct result of policies enacted or ratified in Washington. The collapse of the housing and credit markets, the result of two decades of the reckless disassembly of a sound regulatory system, clearly hit the credit-sensitive auto industry hard. In addition, bipartisan majorities in Congress, led by Democratic and Republican Presidents, approved deeply flawed trade policies that have further disadvantaged the domestic auto industry. Currency manipulation by foreign competitors that has not been adequately addressed by our national leadership, too, has put our domestic producers at an enormous competitive disadvantage. Given Washington's policy-making complicity in the problems facing our domestic automobile industry, should these additional bailout funds for Wall Street move forward, a slice of them should rightly be used to provide some assistance for an industry that means so much for millions of American families.

Mr. MCCAIN. Madam President, I will support the resolution before us today and oppose releasing the remaining Troubled Asset Relief Plan, TARP, funds because I have seen no evidence that the additional and substantial taxpayers' money will be used for its intended purpose. TARP was created to allow the Treasury Department to purchase up to $700 billion in ''toxic assets'' from financial institutions in order to help homeowners facing foreclosure and to stimulate the economy. The misuse of the first $350 billion of TARP funds combined with the lack of transparency promised by Secretary Paulson should be reason enough to oppose releasing additional funds. No further TARP funds should be released until we are able to impose strict standards of accountability and ensure that the money is spent only as intended by Congress—to purchase mortgage-backed securities and other troubled assets.

Today, in an open letter to Members of Congress, 26 public interest organizations wrote that ''(T)he stated purpose of the TARP was to purchase toxic mortgage assets. The TARP was also designed to reintroduce the flow of credit into the market and help stabilize Wall Street. To date, neither has been accomplished.'' The letter also states that the Treasury Department ''has invaded the free market, propping up some companies to the detriment of others and purchasing stock in banks without requiring accountability or transparency about the use of taxpayer funds.'' The signatories included the American Shareholders Association, Americans for Tax Reform, the Center for Fiscal Accountability, the Competitive Enterprise Institute, the Council for Citizens Against Government Waste, the Family Research Council, the National Center for Public Policy Research, and National Taxpayers Union. I will ask to have the full text of the letter printed in the RECORD.

There is no doubt that Congress intended that the Treasury Department use the funds provided to assist only financial institutions. But that has not been the case. The language authorizing the TARP program has been interpreted to allow Treasury to change the game plan and use the funds for things outside the scope of congressional intent. Less than 2 weeks after enactment of the program, Secretary Paulson changed course and decided instead to use TARP funds to recapitalize banks—a decision that was made with little or no input from Congress and was an option that was explicitly rejected by Paulson and Bernanke when they were selling the TARP plan to Congress.

In fact, just this morning the Wall Street Journal reported that Bank of America is close to finalizing a deal with the Government which will give them billions of dollars in U.S. aid. The lead article on the Journal's front page states: ''(T)he commitment of the funds is further evidence of the banking system's delicate condition and its hunger for more capital, despite billions of dollars already invested in financial institutions by the government. So far, the U.S. government has already injected $25 billion into Bank of America.''

The Associated Press recently investigated how the TARP funds given to U.S. banks were being spent. An article published on December 22, 2008, reported what they found. It was astonishing. The article, titled ''Where'd the bailout money go? Shhhh, it's a secret'' reads partly:

WASHINGTON (AP)—Think you could borrow money from a bank without saying what you were going to do with it? Well, apparently when banks borrow from you they don't feel the same need to say how the money is spent.

After receiving billions in aid from U.S. taxpayers, the nation's largest banks say they can't track exactly how they're spending it. Some won't even talk about it.

''We're choosing not to disclose that,'' said Kevin Heine, spokesman for Bank of New York Mellon, which received about $3 billion.

Thomas Kelly, a spokesman for JPMorgan Chase, which received $25 billion in emergency bailout money, said that while some of the money was lent, some was not, and the bank has not given any accounting of exactly how the money is being used.

''We have not disclosed that to the public. We're declining to,'' Kelly said.

The Associated Press contacted 21 banks that received at least $1 billion in government money and asked four questions: How much has been spent? What was it spent on? How much is being held in savings, and what's the plan for the rest?

None of the banks provided specific answers.

''We're not providing dollar-in, dollar-out tracking,'' said Barry Koling, a spokesman for Atlanta, Ga.-based SunTrust Banks Inc., which got $3.5 billion in taxpayer dollars.

Some banks said they simply didn't know where the money was going.

''We manage our capital in its aggregate,'' said Regions Financial Corp. spokesman Tim Deighton, who said the Birmingham, Ala.-based company is not tracking how it is spending the $3.5 billion it received as part of the financial bailout.

There has been no accounting of how banks spend that money. Lawmakers summoned bank executives to Capitol Hill last month and implored them to lend the money—not to hoard it or spend it on corporate bonuses, junkets or to buy other banks. But there is no process in place to make sure that's happening and there are no consequences for banks that don't comply.

Pressured by the Bush administration to approve the money quickly, Congress attached nearly no strings to the $700 billion bailout in October. And the Treasury Department, which doles out the money, never asked banks how it would be spent.

I will ask to have the full article printed in the RECORD.

With no regard for congressional intent, the Treasury Department has used TARP funds to prop up the banking industry and to guarantee securities backed by student loans and credit card debt. But most troubling to me has been the use of TARP funds to help bail out the domestic auto industry—in direct defiance of Congress. Last month, after extensive discussion and debate, the Senate rejected a plan to pump billions of Federal dollars into the domestic auto industry because we saw no evidence of serious concessions from the industry and no assurance of the domestic auto manufacturers' long-term viability.

At the time I said that, before they ask for assistance, the automakers will need to change dramatically the way they do business if they hope to be on course for long-term profitability. Rather than seeking an unconditional handout from the taxpayer, industry leaders must first consider how they can restructure their business models in order to fix the problem themselves and build more competitive products—including changes in management, renegotiating labor agreements, and reorganizing under the bankruptcy process. And, that they should have been doing so months, if not years, ago.

When I opposed the auto bailout plan last month it was mainly because I felt that the automakers needed to prove to Congress and the American people that they were serious about making the changes necessary to ensure their long-term success before they sought assistance from the taxpayer. Unfortunately, those concerns were ignored by the President when he decided to give away over $17 billion in TARP funds to the domestic automakers with no assurances that they would fundamentally change the way they do business to ensure their viability. I continue to believe that this was a critical mistake.

In their first oversight report on TARP spending, the Government Accountability Office, GAO, was very critical of Treasury stating that they had ''failed to address a number of critical issues while implementing the $700 billion financial bailout plan, including how to ensure its efforts are successful.'' The report adds that Treasury ''has no policies or procedures in place for ensuring the institutions . . . are using capital investments in a manner that helps meet the purposes of the act.'' Additionally, the GAO reported that ''Treasury cannot effectively hold participating institutions accountable for how they use the capital injections or provide strong oversight of compliance with the requirements under the act.''

In addition to the GAO, many of my colleagues have been very critical of Secretary Paulson and his handling of the first half of the TARP funds, stating that he has ignored the intent of the bailout legislation because he has done little to address the root cause of the financial meltdown—namely the mortgage market. I understand the anger of my colleagues, indeed, I share it.

It is abundantly clear that there has been a stunning lack of transparency, accountability, and effective management of TARP funds to date. Because of this, I will not support the release of another dime of these funds without first seeing a full and complete accounting of funds already spent or committed as well as the imposition of very strict conditions on the remaining funds as a way to ensure any expenditures reflect the intent of Congress.

Madam President, I ask unanimous consent to have the letters to which I referred printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REQUESTING A TARP DISAPPROVAL RESOLUTION

JANUARY 15, 2009.

U.S. CONGRESS,
Washington, DC.

DEAR MEMBER OF CONGRESS: On behalf of the millions of taxpaying citizens represented by the public interest organizations below, we write to strongly encourage you to swiftly pass a notice of disapproval on releasing the remaining $350 billion in Troubled Asset Relief Program (TARP) funds.

From the beginning, the TARP plan was questionable, but a number of Members nonetheless resolved to support it. It should be clear now that this was a mistake.

The stated purpose of the TARP was to purchase toxic mortgage assets. Secretary Paulson abandoned this concept immediately after the signing ceremony. The TARP was also designed to reintroduce the flow of credit into the market and help stabilize Wall Street. To date, neither has been accomplished.

In addition to misleading Congress about his intent on the use of TARP funds, Secretary Paulson has invaded the free market, propping up some companies to the detriment of others and purchasing stock in banks without requiring accountability or transparency about the use of taxpayer funds.

The TARP legislation specifically requires that before the second half of the $700 billion is released, the President provide Congress with a written report detailing how the additional funds are to be used. A request to spend the second half of the funds without restraint does not meet the requirements set forth in the bill. In addition to requiring this detailed plan, Congress should require an accounting and detailed explanation on how the initial TARP funds have been used and the prospect of a taxpayer recovery of these funds.

Congress now has an opportunity to preserve some of the taxpayers' assets and should spend the necessary time studying the underlying causes of the economic downturn by passing a TARP disapproval resolution. We encourage you to take such action.

Sincerely,

African American Republican Leadership Council, Alex-St. James, Chairman; American Shareholders Association, Ryan Ellis, Executive Director; Americans for Limited Government, William Wilson, President; Americans for Tax Reform, Grover Norquist, President; Americans for the Preservation of Liberty, Mark Chmura, Executive Director; America's Survival, Inc., Cliff Kincaid, President; Center for Fiscal Accountability, Sandra Fabry, Executive Director; Center for Investors and Entrepreneurs, John Berlau, Director; Citizens United, David N. Bossie, President; Coalition for a Conservative Majority, Ken Blackwell, Chairman.

Competitive Enterprise Institute, Fred L. Smith, Jr., President; Council for America, Ron Pearson, President; Council for Citizens Against Government Waste, Thomas Schatz, President; Family Research Council, Thomas McClusky, VP for Government Affairs; Federal Intercessors, Mark Williamson, President and Founder; Free Market Foundation, Kelly Shackelford, Esq., President; FRC Action, Connie Mackey, Senior VP; Maryland Center-Right Coalition, Richard W. C. Falknor, Chairman.

Minuteman Civil Defense Corps., Carmen Mercer, Vice President; Minuteman Foundation, Carmen Mercer, President; National Center for Public Policy Research, Amy Ridenour, Chairman; National Taxpayers Union, Duane Parde, President; RedState.com, Erick Erickson, Editor; RightMarch.com, Dr. William Greene, President; The FlashReport Website on CA Politics, Jon Fleischman, Founder; The Inspiration Networks, Ron Shuping, Executive VP of Programming.

WHERE'D THE BAILOUT MONEY GO? SHHHH, IT'S A SECRET

(By Matt Apuzzo, Dec. 22, 2008)

WASHINGTON (AP).—Think you could borrow money from a bank without saying what you were going to do with it? Well, apparently when banks borrow from you they don't feel the same need to say how the money is spent.

After receiving billions in aid from U.S. taxpayers, the nation's largest banks say they can't track exactly how they're spending it. Some won't even talk about it.

''We're choosing not to disclose that,'' said Kevin Heine, spokesman for Bank of New York Mellon, which received about $3 billion.

Thomas Kelly, a spokesman for JPMorgan Chase, which received $25 billion in emergency bailout money, said that while some of the money was lent, some was not, and the bank has not given any accounting of exactly how the money is being used.

''We have not disclosed that to the public. We're declining to,'' Kelly said.

The Associated Press contacted 21 banks that received at least $1 billion in government money and asked four questions: How much has been spent? What was it spent on? How much is being held in savings, and what's the plan for the rest?

None of the banks provided specific answers.

''We're not providing dollar-in, dollar-out tracking,'' said Barry Koling, a spokesman for Atlanta, Ga.-based SunTrust Banks Inc., which got $3.5 billion in taxpayer dollars.

Some banks said they simply didn't know where the money was going.

''We manage our capital in its aggregate,'' said Regions Financial Corp. spokesman Tim Deighton, who said the Birmingham, Ala.-based company is not tracking how it is spending the $3.5 billion it received as part of the financial bailout.

The answers highlight the secrecy surrounding the Troubled Asset Relief Program, which earmarked $700 billion—about the size of the Netherlands' economy—to help rescue the financial industry. The Treasury Department has been using the money to buy stock in U.S. banks, hoping that the sudden inflow of cash will get banks to start lending money.

There has been no accounting of how banks spend that money. Lawmakers summoned bank executives to Capitol Hill last month and implored them to lend the money—not to hoard it or spend it on corporate bonuses, junkets or to buy other banks. But there is no process in place to make sure that's happening and there are no consequences for banks that don't comply.

''It is entirely appropriate for the American people to know how their taxpayer dollars are being spent in private industry,'' said Elizabeth Warren, the top congressional watchdog overseeing the financial bailout.

But, at least for now, there's no way for taxpayers to find that out.

Pressured by the Bush administration to approve the money quickly, Congress attached nearly no strings to the $700 billion bailout in October. And the Treasury Department, which doles out the money, never asked banks how it would be spent.

''Those are legitimate questions that should have been asked on Day One,'' said Rep. Scott Garrett, R–N.J., a House Financial Services Committee member who opposed the bailout as it was rushed through Congress. ''Where is the money going to go to? How is it going to be spent? When are we going to get a record on it?''

Nearly every bank AP questioned—including Citibank and Bank of America, two of the largest recipients of bailout money—responded with generic public relations statements explaining that the money was being used to strengthen balance sheets and continue making loans to ease the credit crisis.

A few banks described company-specific programs, such as JPMorgan Chase's plan to lend $5 billion to nonprofit and health care companies next year. Richard Becker, senior vice president of Wisconsin-based Marshall & Ilsley Corp., said the $1.75 billion in bailout money allowed the bank to temporarily stop foreclosing on homes.

But no bank provided even the most basic accounting for the federal money.

Some said the money couldn't be tracked. Bob Denham, a spokesman for North Carolina-based BB&T Corp., said the bailout money ''doesn't have its own bucket.'' But he said taxpayer money wasn't used in the bank's recent purchase of a Florida insurance company. Asked how he could be sure, since the money wasn't being tracked, Denham said the bank would have made that deal regardless.

Others, such as Morgan Stanley spokeswoman Carissa Ramirez, offered to discuss the matter with reporters on condition of anonymity. When AP refused, Ramirez sent an e-mail saying: ''We are going to decline to comment on your story.''

Most banks wouldn't say why they were keeping the details secret.

''We're not sharing any other details. We're just not at this time,'' said Wendy Walker, a spokeswoman for Dallas-based Comerica Inc., which received $2.25 billion from the government.

One didn't even want to say they wouldn't say.

Heine, the New York Mellon Corp. spokesman who said he wouldn't share spending specifics, added: ''I just would prefer if you wouldn't say that we're not going to discuss those details.''

The banks which came closest to answering the questions were those, such as U.S. Bancorp and Huntington Bancshares Inc., that only recently received the money and have yet to spend it. But neither provided anything more than a generic summary of how the money would be spent.

Lawmakers say they want to tighten restrictions on the remaining, yet-to-be-released $350 billion block of bailout money before more cash is handed out. Treasury Secretary Henry Paulson said the Department is trying to step up its monitoring of bank spending.

''What we've been doing here is moving, I think, with lightning speed to put necessary programs in place, to develop them, implement them, and then we need to monitor them while we're doing this,'' Paulson said at a recent forum in New York. ''So we're building this organization as we're going.''

Warren, the congressional watchdog appointed by Democrats, said her oversight panel will try to force the banks to say where they've spent the money.

''It would take a lot of nerve not to give answers,'' she said.

But Warren said she's surprised she even has to ask.

''If the appropriate restrictions were put on the money to begin with, if the appropriate transparency was in place, then we wouldn't be in a position where you're trying to call every recipient and get the basic information that should already be in public documents,'' she said.

Garrett, the New Jersey congressman, said the nation might never get a clear answer on where hundreds of billions of dollars went.

Mr. KOHL. Madam President, the Senate is voting to release the final $350 billion of funds to the Department of Treasury for the Troubled Asset Relief Program, TARP, a move I reluctantly supported.

Since Congress passed the Emergency Economic Stabilization Act of 2008, the public and elected officials have become increasingly frustrated with how the Treasury Department implemented the TARP. The Treasury has implemented little to no oversight, required no transparency from banks receiving funds and has done very little to stem the rising foreclosure problem. A total of 87 financial institutions have received funds from the Treasury Department, including four from Wisconsin. When I asked the Wisconsin banks to show me how they used the Treasury funds they were happy to share how they were combating the financial crisis. For example, Associated Banc-Corp increased their mortgage loan activity by 20 percent. Marshall and Ilsey implemented a 90-day foreclosure moratorium in order to provide assistance to at-risk homeowners. These banks are an example of how the TARP program is injecting credit back into the market. Unfortunately, not every bank is following their example.

The current administration has failed to create regulations to monitor the funds and ensure that the taxpayer dollars are being used appropriately to unfreeze the credit markets and assist at-risk homeowners. I was very concerned about extending the incoming administration the additional funds without any assurances or clear plans on how to increase transparency, oversight and lending. Thankfully, the President-elect and his advisors have sent Senator REID a letter clearly laying out new measures creating transparency, refocusing the funds on foreclosures, and protecting taxpayer investments. As we move forward, I am confident that Congress and the new administration will work together to continue to promote economic stability, preserve homeownership, and protect taxpayer interests.

Mr. SPECTER. Madam President, I have sought recognition to discuss the resolution of disapproval on the release of the final $350 billion of the economic rescue package.

At the outset, I am dissatisfied with the way the first $350 billion has been spent because of failure to deal with the home mortgage issue, the ineffectiveness in restoring normal lending to consumers and businesses, and the lack of transparency. The Treasury Department started off by stating that it would purchase toxic securities backed by troubled home mortgages but has since shifted to providing funds for the banks, some of which didn't want them. That didn't loosen up the credit market. One of the key problems has been foreclosures, which the first $350 billion hasn't begun to deal with. Good ideas like FDIC Chairwoman Bair's have been rejected.

As a matter of public policy, I am opposed to bailouts. In our free enterprise system, the market, not the Government, should determine winners and losers. However, there is a necessary exception when the potential consequences of failing to provide Federal economic aid could produce a devastating effect on the economy. That was the basis for the very tough vote which I cast in supporting the $700 billion economic stabilization package because I felt that the failure of Congress to take some decisive, substantial action would run the risk of dire consequences to the U.S. economy.

I objected to the process used to consider the $700 billion package. Insufficient consideration by the Treasury Department and the Federal Reserve followed by a rush to judgement by Congress resulted in legislation that had not been given appropriate consideration. I wrote a series of letters and advocated for the Senate to follow regular order, which starts with the introduction of legislation, committee hearings and markup, debate and amendment by individual Members, and the House-Senate conference. The President then reviews the final bill.

Ultimately, Congress did not follow regular order. Instead, Senators were only given a chance to vote yes or no on what started as a 4-page memorandum from the Treasury Department and quickly grew to 414 pages. As a result, the bill included undesirable pork provisions. Had there been an opportunity to offer amendments, these undesirable provisions could have been removed. In a series of town meetings in October, I found the temperature of my constituents at 212 degrees Fahrenheit.

We are now confronted with a decision of whether to release the final $350 billion installment of the program. The authorizing legislation passed by Congress in October did not release the entire $700 billion immediately, but instead there have been installments of $250 billion, $100 billion at the request of the President and $350 billion more subject to congressional objection. At the time, I raised concerns that a resolution of disapproval by Congress on the final $350 billion may be unconstitutional under the Supreme Court decision in INS v. Chadha. The resolution of disapproval requires a majority vote in both Houses for adoption and is subject to a veto by the President.

In coming to a determination of how to vote on the resolution of disapproval, I felt it important to evaluate the effectiveness of the program to date, whether the outgoing administration has carried out its responsibilities as intended by Congress, the intentions of the incoming administration to utilize the program, and the necessity for further market stabilization based on current economic conditions.

The $700 billion economic rescue was requested by the administration in September as major financial institutions were threatened with failure as a result of toxic assets on their balance sheets. Treasury Secretary Paulson and Federal Reserve Chairman Bernanke warned of an imminent meltdown in financial markets which would threaten retirement funds, jeopardize the jobs of millions of Americans, and subject homeowners to more evictions. Major institutions such as Bear Stearns, Lehman Brothers, and AIG had already reached a tipping point, and the Federal Government began making decisions on a case-by-case basis of whether to extend assistance. The stock market followed each move closely. It was argued that unless financial institutions were able to sell off securities backed by souring assets such as subprime mortgages there would be additional failures that would jeopardize the worldwide markets in an irreversible manner.

After enactment in early October, the Treasury Department quickly began implementation of the Troubled Asset Relief Program, or TARP as it came to be known. In what was widely seen as a reversal of position, on October 14, 2008, the Treasury Department announced that $250 billion would be devoted to purchasing senior preferred shares in financial institutions as part of the Capital Purchase Program, CPP, to ''encourage U.S. financial institutions to build capital to increase the flow of financing to U.S. businesses and consumers and to support the U.S. economy.'' According to a January 14, 2009, article in the New York Times, 257 financial institutions in 42 states had received $192 billion in capital injections from the CPP, with 7 of those firms receiving 62 percent of the funds. Additional funds have been devoted to AIG, $40 billion; Citigroup, $25 billion; the auto industry $19 billion, and to backstop a Federal Reserve program to boost consumer lending, $20 billion.

While these initial investments may be viewed as a success in fending off an outright collapse of our financial markets, there has been little evidence thus far that there has been a loosening of the credit markets resulting in increased lending by banks to consumers and businesses. Instead, there has been widespread dissatisfaction among my constituents that the funds given to banks have been used for global buyouts, as exemplified by Bank of America seeking a larger stake in China Constuction Bank, PNC Financial Services Group taking over National City Corp., and USB acquiring several California lending firms. All three firms received TARP funds. There have even been press reports of participating firms using TARP funds for corporate sponsorships, as exemplified by CitiBank completing a 20-year contract to pay the New York Mets $400 million to name the team's new stadium ''Citi Field'' and by AIG paying the British soccer team Manchester United $125 million for the privilege of having its logo appear on its uniforms.

There has also been inadequate transparency and accountability thus far, which was demanded by the taxpayer when Congress enacted the authorizing legislation. My constituents have been frustrated to learn so little about how their money is being used by these financial institutions and about the amount of lending that is taking place. I supported the $700 billion economic rescue package because I felt that the failure of Congress to take some decisive, substantial action would run the risk of dire consequences to the U.S. economy. However, I was also led to believe that there would be significant oversight and transparency to accompany the broad powers that have been granted.

This lack of transparency presents a serious challenge to the oversight panels created as part of the authorizing legislation. According to a December 2, 2008, Government Accountability Office, GAO, report, the Treasury Department has not yet imposed reporting requirements on the participating financial institutions. Doing so would enable Treasury to monitor how the infusions were being used and whether they are meeting the goals of increasing the flow of financing to U.S. businesses and consumers and encouraging the modification of existing residential mortgages for those in need. The GAO report also raised questions about Treasury efforts in achieving its intended goals and monitoring compliance with limitations on executive compensation and dividend payments.

The five-member Congressional Oversight Panel, COP, created to oversee the implementation of the economic rescue program has been very critical thus far, suggesting that more accountability should be in place before the final $350 billion is released. The panel is chaired by Harvard professor Elizabeth Warren, and its other members are Representative JEB HENSARLING, NY State superintendent of banks Richard Neiman, AFL–CIO associate counsel Damon Silvers, and former Senator John Sununu. On December 10, the panel released its first report which contained 10 questions for the Treasury Department. Its second report, released on January 9, 2009, analyzed Treasury's answers and stated that its ''initial concerns about the TARP have only grown, exacerbated by the shifting explanations of its purpose and the tools used by the Treasury.'' It reported that Treasury still has not adequately explained how it is selecting banks for its capital injection program or its strategy for stabilizing the financial markets. It acknowledged that the TARP has forestalled a financial collapse, but with ''no demonstrable effects on lending.'' Also, it said that Treasury has no ability to ensure banks lend the money they have received and no standards for measuring the success of the program. It also noted that Treasury ignored or offered incomplete answers to some questions.

The authorizing legislation also created a Special Inspector General with authority to track and investigate how the Government spends the TARP funds. The President selected, and the Senate confirmed, Neil M. Barofsky, a former New York assistant U.S. attorney, for this position. According to a January 7, 2009, letter to Finance Committee Chairman BAUCUS, Mr. Barofsky has had some success in pushing Treasury to include more restrictions on any funds given out in future transactions. As a result, the letter said, Treasury had included new standards that will force companies to establish new internal controls and account for the Government funds they receive. Mr. Barofsky's first formal report is due to the Finance Committee on February 6, 2009.

There is further frustration from an investigation conducted by the Associated Press, AP, showing that there has been insufficient transparency into the operations of the banks that have received TARP funds. The AP contacted 21 banks that received at least $1 billion in Government money and asked four basic questions: How much has been spent? What was it spent on? How much is being held in savings? And, what is the plan for the rest? According to the AP, none of the banks provided specific answers. If the oversight panels are unable to get answers to these very basic questions posed by the AP, they will be unable to adequately determine the effectiveness of the TARP program.

I believe that the onus is on the Treasury Department and the Federal Reserve to impose reporting requirements on the participating financial institutions. It is imperative that the American public have a full understanding of how their hard earned tax dollars are being used. In the absence of action by the Treasury Department to impose satisfactory reporting requirements by participating financial institutions, Congress has been forced to consider taking additional legislative action. I cosponsored legislation—S. 133, the Troubled Asset Recovery Program Transparency Reporting Act—introduced on January 6, 2009, by Senators DIANNE FEINSTEIN and OLYMPIA SNOWE that would require participating financial institutions to provide detailed, publically available quarterly reports to the Treasury outlining how the funds have been used. This legislation further requires that TARP funds not be used for lobbying expenditures or political contributions. Additionally, this legislation requires the Secretary of the Treasury to develop and publish corporate governance principles and ethical guidelines for recipients of such funds, including but not limited to restrictions governing the hosting, sponsorship, or payments for conferences and event, and expenses relating to entertainment or similar ancillary corporate expenses. Violators of this legislation would be subject to civil penalties including fines and may become ineligible for future emergency economic assistance.

I have additional concerns that there has been little emphasis on foreclosure mitigation assistance in the TARP program. On November 14, 2008, FDIC Chairman Sheila Bair proposed a plan to forestall foreclosures by offering banks an incentive to modify mortgages by having the Government agree to share in the loss of a loan that fell into default. Specifically, mortgage payments for homeowners that are at least 2 months delinquent would be reduced to between 31 and 38 percent of monthly income by modifying the interest rate, extending the repayment period, and deferring principle. To encourage servicers to participate, the Government would share up to 50 percent of the losses if a homeowner who had received a modification later defaulted, and the FDIC would pay servicers who process mortgages $1,000 for each modified loan. The plan was expected to initially help 2.2 million borrowers get new loans, and after some borrowers redefaulted, 1.5 million would ultimately keep their homes. The plan was estimated to cost approximately $24 billion.

The FDIC plan was rejected as the Treasury Department looked at other strategies, including ways to reduce interest rates on distressed loans. However, in the end, neither approach has been implemented. They have instead relied on industry-led efforts by Fannie Mae, Freddie Mac, and others to voluntarily modify troubled loans.

In the December 2008 GAO report, it was noted that Treasury had initially intended to purchase mortgage backed securities and use its ownership position to influence loan servicers and to achieve more aggressive mortgage modification standards. The Treasury changed its strategy within weeks and, instead, decided to make capital injections into financial institutions. It also noted that despite language in the lending agreements with these financial institutions to work under existing programs to modify the terms of residential mortgages, ''it remains unclear how [the Treasury's Office of Financial Stability] and the banking regulators will monitor how these institutions are using the capital injections to advance the purposes of this act . . .'' The Congressional Oversight Panel chair Elizabeth Warren echoed this sentiment, ''The bailout money doesn't require a specific approach . . . It entrusts Treasury with developing an approach, and that's what Treasury should be doing.''

The incoming administration has sought to assure Congress that it would make a number of changes to the TARP program, including a ''sweeping effort'' to address foreclosures and reduce mortgage payments for ''responsible homeowners.'' It has promised efforts to boost consumer and business lending. It has also said it will improve transparency and accountability for participating firms. However, there have been few details on exactly how they plan to move forward.

It has been argued that further deterioration in the economy will require additional intervention. Lawrence Summers, who has been chosen to head the National Economic Council by President-elect Obama, has called the need for the second round of funds ''imminent and urgent.'' In addition, it has been argued that a failure to release the second half of the TARP funding could once again frighten the markets and lead to a sharp drop in the Dow. The 777-point plunge in the Dow plunge on September 29, 2008, in the wake of the House's rejection of the legislation, demonstrated the potential for even greater problems if Congress did not act.

Amidst the various criticisms that have been raised against the TARP program and its implementation by the outgoing administration, many economists remain concerned about the state of the financial system. Federal Reserve Chairman Bernanke has expressed concern about the world economy and the financial markets and suggested that foreclosure prevention and purchases of troubled assets might be useful tools to help the economy in the near term. Bernanke also commented that fiscal stimulus would not be enough to support the economy. With respect to the TARP program, Chairman Bernanke said on January 13, 2009, ''. . . Treasury's injection of about $250 billion of capital into banking organizations, a substantial expansion of guarantees for bank liabilities by the Federal Deposit Insurance Corporation, and the Fed's various liquidity programs . . . likely prevented a global financial meltdown in the fall . . . with the worsening of the economy's growth prospects . . . more capital injections and guarantees may become necessary to ensure stability and the normalization of credit markets.'' He also said, ''Responsible policymakers must therefore do what they can to communicate to their constituencies why financial stabilization is essential for economic recovery.''

Also on January 13, 2009, the Fed Vice Chairman Donald Kohn said, ''The remaining TARP funds will play an essential role in further strengthening the financial system and restoring normal credit flows . . . An important use of these [TARP] funds will be to step up efforts to avoid preventable foreclosures . . . more needs to be done . . . A continuing barrier to private investment in financial institutions is the large quantity of troubled, hard-to-value assets that remain on institutions' balance sheets. The presence of these assets significantly increases uncertainty about the underlying value of these institutions and may inhibit private investment and new lending.''

According to a January 14, 2009, article in the New York Times—mentioned earlier—″Some banking experts are even questioning if the bailout may be doing more harm than good.'' It cited a struggling small bank in Michigan that had made a series of bad loans but had been given a ''cushion'' instead of allowing it to ''sink or swim'' on its own. The articled suggested that by doing so, ''It could also delay mergers of weaker banks with healthier ones.''

With a projected deficit of $1.2 trillion for 2009 and a possible $800 billion expenditure on a stimulus package in the next few weeks, Congress must be vigilant in its use of the taxpayer's dollars. At the current time, there appears to be no immediate threat to our financial system, which raises the question of whether the additional authorization is needed at this time, especially in light of the failures with the program so far.

Based on a comprehensive evaluation of these issues, I am reluctant to support an additional authorization of $350 billion at this time. To date, I have seen little evidence that the TARP program has been effective in increasing lending by the institutions who have received billions in taxpayer dollars. I also have serious questions about the effectiveness of existing programs to help troubled homeowners and whether additional steps should be taken. Further, unless steps are taken to significantly improve oversight and transparency of the TARP program, my constituents and I will not feel confident that we are not simply throwing good money after bad by releasing the final $350 billion. On the current state of the record, I cannot continue to support this program and intend to vote for the resolution of disapproval. In the future, I stand ready to act if it appears that a failure to take decisive, substantial action would run the risk of dire consequences to the U.S. economy.

Mr. GRASSLEY. Madam President, many Senators, including this one, reluctantly supported the Troubled Asset Relief Program last year because we were told by the so-called experts that our financial markets were on the verge of collapse.

We were told that we had to deal with the toxic mortgages that were clogging up our financial markets by having the government purchase them at an auction and hold them until the markets stabilized. The theory was to get these troubled assets off the banks' balance sheets and provide them with additional funds to lend to credit worthy borrowers.

I had serious doubts about the original plan, but it has never been implemented. Instead, the money has been used to invest directly in select financial institutions. Essentially, it has become a slush fund for the Secretary of Treasury to engage in an erratic industrial policy of picking winners and losers among any company directly, or indirectly, connected to our financial markets.

I am deeply troubled by this outcome. I believe Congress was mislead with respect to the financial crisis as well and the intended use of the funds. Moreover, the administration's decision to use funds to provide assistance to the U.S. auto industry was contrary to congressional intent.

The ever-changing nature of the TARP program has introduced a new level of uncertainty into our financial markets. Market participants no longer know when or where the Federal Government will intervene. This unpredictability has a chilling effect on investors and undermines the ability to raise capital and make new loans.

The outgoing administration has misused these funds and failed to provide adequate accountability. But, the vote today is about the use of the remaining funds by the incoming administration. Unfortunately, they have expressed a desire to pursue an even more vigorous policy of picking winners and losers, with an extra dose of micromanagement thrown in for good measure.

The efficient allocation of credit is vital to the successful operation of our economy. Without saving and investment, there can be no long-term economic growth. Banks and other financial institutions serve a critical role in bringing savers and investors together and allocating credit to its most productive use.

To operate successfully, credit markets need transparency and accountability. Transparency is achieved through the reporting and disclosure of assets and liabilities. Accountability is achieved through the proper alignment of risk and reward. Those who accept risk should profit from their success and pay for their losses.

Unfortunately, we have allowed ourselves to undermine the very foundation of our credit markets through a series of well-meaning, but ultimately misguided actions. The continuation of the Troubled Asset Relief Program will not address these fundamental problems. We need a new approach. I'm hopeful Congress will be able to work with the new Administration in the coming months to improve our financial markets and revitalize our economy.

Ms. MIKULSKI. Madam President, before I voted for the bailout I said, regrettably, a bailout is needed. I voted to get credit flowing again to the distressed homeowner, to families and to small businesses. I didn't vote to give the money to banks to enable them to continue their flawed policies, their hubris and their high handedness. And I didn't do it so they could be ungrateful, buy other banks, or give out dividends, and to take executives on spa treatments. I was mad as hell that the Wall Street Master of the Universe took us into a black hole. And I am mad as hell now that they didn't thank the taxpayer.

The Bush administration misled us about what they would do with the money. Now we're finding both they and the banks misused the funds, abused the taxpayer and squandered both the money and the opportunity. I said if we were going to have a bailout we needed three things, rescue, reform, and retribution. I said, no blank checks and no checks without balances, help homeowners, and guarantee no golden parachutes for the people who got us into this mess. Did the Bush administration listen? No. Paulson dodged and ducked, and the taxpayers got duped. Distressed homeowners were left in the lurch. Bernie Madoff is in his luxurious penthouse and homeowners are being foreclosed and evicted. What's wrong with this picture?

We have already given $350 billion to the big banks, who said they were going to lend it, and said they were going to have transparency. But instead, we have gotten hoarding, and resistance. Banks don't want to tell us what they are doing with our money. When I voted for the rescue plan, I thought I was voting for dealing with the credit crisis, and bringing the financial system to some form of stability. But what has happened is, instead of helping with jobs, we have been helping with banks.

The banks said we want taxpayer money and we want it our way or the highway. But thankfully, on Tuesday it's going to be a new day and a new way. Obama met with us this week on his economic agenda. We had a robust give and take. The number one priority we agreed upon is job creation. We need to make sure that for people who have jobs, they get to keep them and feel more economic security. And for people who are out of work, not only to provide a safety net on unemployment benefits, but create opportunities for returning to work or even new jobs. We need to give President Obama the tools he needs to get our economy going again. We shouldn't hold the misdeeds of the Bush administration against him.

We need to work together. People don't want to talk about butting heads, they want to talk about kicking butt with the banks. And the President-elect and I agree on that. I see myself helping President-elect Obama kicking butt, to work with people who are in danger of losing their homes, not with a bailout but with a workout. The banks have to get off the bailout shtick, and start to get on the workout shtick with homeowners.

This week, the President-elect huddled with us, to talk about how his plan is different than the previous administration. We need vigilance and responsibility that's what President Obama has pledged. Three major areas that we will work with the Obama administration are number one, oversight and regulation. We will put real financial cops on the beat to make sure money goes where it is supposed to. Number two, a sweeping, comprehensive effort to address the foreclosure crisis, we will use TARP money to get to the root of the crisis, keep people in their homes, and save neighborhoods. Number three, get tough and insist on transparency. Banks cannot just take the money and run. The new plan will make them tell us what they are doing, no dividends, no giving money to banks to buy other banks, no golden parachutes, and no spa treatments.

I will vote for the additional TARP money. Not because I support the banks and Wall Street, but because I support our new President, and because I support giving him the tools to get our economy rolling again. But we need a major attitude adjustment. It is not only what we hear from the banks, it is what we do not hear from them. There is no sense of gratitude. There is no sense of gratitude that the waitress, the single mother, the farmer, the firefighter, is willing to help. There is no gratitude, no remorse, no promise to sin no more, no ''let's make amends.'' Instead, they pay themselves lavish salaries, bonuses and perks, like lavish spa retreats.

At $350 billion, I don't want to be a passive investor. Congress and the new President must tell Wall Street, ''You need to go to work and dig out of this mess. Help rescue the economy, not the Wall Street managers.'' Work for America, it is America that is paying your salaries. Give us your best thinking. Give us your energy. It is time to restore our economy and restore our national honor. So pull up your pants and your pantsuits, and go to work and let's rebuild this economy!

Mr. BYRD. Madam President, I will oppose the joint resolution of disapproval and vote to release these funds, but I do so adding my voice to those putting the incoming administration on notice.

This is an enormous sum of money and authority being given to the Treasury Department, and it is especially worrisome because the American public has little confidence in this program. Its transactions are opaque. Its potential for abuse is enormous. Its effect on the economy remains uncertain.

According to the public letter sent this week to the House and Senate leadership, the incoming Obama administration's economic team has committed to a ''full and accurate accounting'' of how these monies are invested and ensuring that these resources are not ''enriching shareholders or executives.'' The House of Representatives today is considering legislation to hold the new administration to its commitments, and I hope the Senate will do the same.

Other promises and commitments are being made, at private briefings and closed-door caucuses, as the new administration tries to cajole Senators to oppose this disapproval resolution. That is unfortunate because I believe it further undermines an already questionable program, which could use more transparency, and not less. I realize that the new administration inherited this financial mess and that it is trying to do the best with the hand that it has been dealt. But I hope that it will learn from the mistakes of the outgoing administration and, instead, have faith in the wisdom of an informed public.

Having authorized this program only 15 weeks ago, I think the Congress should give it time to work. By any objective measure, the economy is getting worse. West Virginia's unemployment rate is rising, and it has lost hundreds of manufacturing jobs in recent months. In the last 2 months, Toyota announced that it would lay off 120 workers at its plant in Buffalo. An Ohio-based packaging manufacturer announced it would close its plant in Culloden, laying off 41 workers. The Bayer MaterialScience plant in New Martinsville, which makes polymers that are used in the automobile and housing industries, announced it would lay off 70 workers. Columbian Chemical Company announced that it would close its plant near Moundsville, laying off 55 workers.

If the new administration says it needs these tools, then I am willing to give it some latitude. But I caution this administration, the American people must have transparency. They must see effective oversight. They must have confidence that this is not another Ponzi scheme, concocted by Madoff-type, money-hungry, Wall Street fat cats, who don't care about anything except lining their own pockets.

If the new administration gets this money, it must do better than its predecessor. We have just lived through one failed administration. We cannot afford to live through another.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, there are moments in the Senate that are memorable, but the most memorable moment for me in the last several months occurred in the conference room of Speaker NANCY PELOSI when we were called in, Democrats and Republicans, House and Senate leaders, and sat around a large conference table facing the Secretary of the Treasury, Hank Paulson, and the head of the Federal Reserve, Ben Bernanke. They opened the meeting by saying that America is facing an economic crisis that no one in this room has ever seen, which will spin out of control, reaching across the world, creating economic consequences you cannot even envision, unless we act and act now. You could have heard a pin drop in that room. They said we need hundreds of billions of dollars to put into the banking system for credit, and we have to do it as quickly as possible or you are going to see major corporations in America fail, thousands of jobs lost, and an economic recession bordering on a recession. The choice was clear at the end of the day. In light of that circumstance and the clear failure of these major institutions, we had two choices: do something or do nothing.

I chose to do something. I voted for this TARP plan—a strong bipartisan vote, Democrats and Republicans—and said we have to do something, we can't let this happen to our economy and businesses and let families and individuals suffer for a long time to come.

We put in conditions and said: We will split it. Of the $700 billion, you can spend the first $350 billion, but you have to come back and ask us for the second half, and we will decide whether you have spent it well.

Time passed, and here we are. There is a request from President Bush for the remaining $350 billion, but we clearly know he won't spend it. It is money that can be spent, may be spent by the new President, Barack Obama—by the new administration. Do we need it? Are we still facing an economic crisis? Today in America, 17,000 Americans lost their jobs, 11,000 lost their health insurance, and 9,000 saw their homes go into mortgage foreclosure. Oh, it isn't just another bad day in America, it is a pattern that has developed since we were told last September what was happening to our economy.

There are those on the other side who say the best thing, in light of this economic situation, is to do nothing. I am not one of them. As badly and poorly managed as those funds were—the first $350 billion—I happen to be one of those people, one of those voters, and one of those Senators who said to America: Give us a new leader, give a new team a chance to change this country. A majority of the American people said that is the right thing to do, and they elected Barack Obama and JOE BIDEN. They are asking for this money not to use it the wrong way, the old way, an imperfect way, but to use it with transparency so that the American people can see what is being done to stabilize this economy, to stop this hemorrhaging of jobs, to create some credit so that businesses can survive, and to inject perhaps hundreds of billions of dollars into mortgage foreclosure so that people can stay in their homes and the real estate market bottoms out.

Listen, if we don't do that, this is going to go from bad to worse, and 17,000 jobs a day lost in America could double—yes, it could—by doing nothing. And those who vote yes on this are standing for that premise: Do nothing. Don't trust this new President. Don't trust this new administration. Just wait, things are bound to get better.

I am not one of them. I want to give President Obama the tools he needs to breathe life back into this economy, to give working families a fighting chance, to create good-paying jobs in this country, to give small businesses a chance to survive, to provide a decent income and some benefits for their workers, and maybe to preserve some basic industry in this country so there still are manufacturing jobs in America. We can't achieve that by doing nothing.

As badly as this money has been managed—the first $350 billion—we have to look forward. Some of the people who managed the first $350 billion could not imagine an America without the giants, such as Goldman Sachs. I can't imagine America without our middle class, without working families, who really form the basis, the bedrock, the foundation for the growth of our economy and the growth of our democracy.

I am going to be voting with the faith that this new administration, with new leadership and new eyes and new vision and new values, will invest this money properly so that we can turn this economy around and build a strong American future.

Madam President, I yield the floor, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Madam President, as the distinguished Senator from Illinois said, this election was supposed to be about change. Yet his speech is eerily reminiscent. It is exactly the same speech that was given on behalf of giving the Bush Administration a blank check a few months ago. It seems to me absolutely nothing has changed.

A few months ago, we were told we are in a crisis, you need to act, you can't wait. You need to act immediately, and you need to give us unfettered discretion. The times demand that. Trust us.

Well, several months later, we have seen the result of that open checkbook, that unfettered discretion, that broad-based trust without any parameters, without any meaningful protection in writing. There has been mistake after mistake and embarrassment after embarrassment and a complete lack of accountability in the TARP. Yet here we are again today debating the second half of this huge $700 billion program.

Even though we supposedly conducted a historic election based on the theme of change, it is exactly the same speech: We are in a crisis; we can't wait; we need to rush to judgment; give us an open checkbook; give us unfettered discretion; and trust us. Well, there is an old expression: Fool me once, shame on you; fool me twice, shame on me. The American people are not going to be fooled twice. The question is, Is the Senate going to be fooled twice?

An open checkbook, unfettered discretion, and ''trust us'' simply isn't good enough. I am not questioning the sincerity of anyone either in the Bush Administration or the incoming Obama Administration. But it isn't good enough with $700 billion of taxpayer funds, particularly given the history of the last several months.

One of the major protections that was put in the original legislation that was much ballyhooed was the Congressional Oversight Panel. That Congressional Oversight Panel was supposed to track what was done in the TARP, issue reports, and demand accountability. Well, they have done their job and they have issued a significant report. The problem is, the report makes crystal clear there is no accountability.

The first main issue the Congressional Oversight Panel examined was bank accountability: What are banks doing with the money? Are they using the money in a way that was intended, particularly to increase credit availability to citizens and businesses? The Congressional Oversight Panel's bottom-line conclusion on that is pretty simply stated:

> The panel still does not know what the banks are doing with taxpayer money.

It couldn't be stated more clearly. The Treasury doesn't know, the oversight panel doesn't know, nobody knows.

The Associated Press, on December 22, issued a report about an investigation of 21 banks and what they were doing. They mostly didn't get any answers, but Morgan Chase, which received $25 billion, gave this detailed, sophisticated answer:

> We have lent some of it, we have not lent some of it. We have not given any accounting of saying here is how we are doing it.

Period. In fact, Treasury has the authority to require banks to report on their use of funds as a condition for the receiving of funds. Guess what. Treasury declined to make that requirement.

Point No. 2 of the report: transparency and asset evaluation. TARP was, in large part, to shore up healthy banks. Yet there is no metric, there is no rule written anywhere about how Treasury is determining what a healthy bank is.

Point No. 3: general strategy. TARP has been a moving target. The whole model has changed week to week. In fact, we still call it TARP—the Troubled Asset Relief Program—but that idea was thrown out the window 2 weeks after Congress originally passed the program. So the Congressional Oversight Panel had another basic question: What is the general strategy as to how you are going to stabilize the economy? What are you focused on? Why should that be the focus? And rather than providing any detailed explanation, Treasury's explanation was that they are working to ''stabilize the economy.'' Well, that is a lot of detail. That is accountability. That makes me feel better.

This has been the history of the TARP, and the question is, Are we going to allow it to remain the history and move on to the second $350 billion of taxpayer funds?

I am not a banking or financial expert and I do not own a crystal ball. I can't see into the future. I can't predict what crises will or will not occur in the economy. And I am not saying this economy is turning the corner and is improving and we don't have many challenges ahead. But I can predict this: If we don't pass this resolution of disapproval, nothing will change in the TARP. There will continue to be no accountability, the whole program will change its focus from week to week, and we will waste a huge amount of that $700 billion of taxpayer funds.

Again, we come back to where we were just a few months ago: We are in a crisis; you have to act; you can't even wait until tomorrow; you have to pass this blank check; unfettered authority; trust us.

Even with an intervening election that was supposed to be about change, the question remains: Are we going to change or not? Are we going to go down precisely the same path? The American people had serious questions and concerns the first time around. If we accept that speech again—oh, we are in a crisis; you need to act immediately; open checkbook; unfettered discretion; trust us—if we buy that the second time around, they are not going to be perturbed, they are going to go through the roof, and so they should because they have good old-fashioned American common sense. They will say, ''Fool me once, shame on you; fool me twice, shame on me.''

That is what we face here in the Senate. We must demand a clearly defined program. We must demand real accountability. We must demand real protections for the taxpayer. And the only way we will get any of that, any of it, is to pass this disapproval resolution and demand that be put in statute, in law, and not simply be a passing promise.

I urge all my colleagues not to be fooled again, to stand up for real accountability, to stand up for the taxpayer, and, yes, to be ready to act in uncertain times but to say no to an open checkbook, to unfettered discretion, and to mere promises that things will be better and mere pleas to trust us.

Madam President, I understand the majority leader is coming to speak for the other side, so I will retain the floor until then.

Madam President, again, to me, that is the question. It is not about whether you think the economy is healthy—put me down for an unhealthy economy. It is not about whether we think there are rosy times ahead or there may be serious problems. Put me down for there may well be very serious problems. In fact, put me down for there are going to be, we just don't know precisely what they are going to be.

But that does not justify what we have before us. That does not justify an open checkbook, unfettered discretion, and mere acceptance of promises and pleas to trust us.

The American people are demanding something far more than that, and they deserve something far more than that. The question is, Is anything going to change? After 2 years of debates about change, the question is, Is anything going to change? Continuing down this path to the second half of the TARP program would represent a complete lack of change. It would represent complete continuity between one administration and the next. It would represent complete continuity between one Wall Street Treasury Secretary and the next, complete continuity between mere promises and pleas to trust us, and nothing more than that.

Put me down for wanting change. Put me down for demanding change. This is the time and the place to do it. Obviously, change in this program can only occur if we pass this disapproval resolution. Change will never occur if we defeat it because then the new administration will have a blank check, it will have unfettered discretion, it will have our answer to ''trust us''—Sure, why not? When any administration has that, they are not going to restrict themselves, they are not going to put more rules in place, they are not going to tie their own hands. By definition, any administration wants to maximize that unfettered discretion, that open checkbook. The question is, Are we going to not demand change and give them that? Or make change happen right here, right now, with regard to this central new program, in terms of our struggling economy?

Madam President, I ask unanimous consent to have printed in the RECORD this two-page letter from 26 broad-based economic, financial, and other citizen groups from around the country, requesting in very clear, strong terms our passage of the TARP disapproval resolution.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN OPEN LETTER TO THE UNITED STATES CONGRESS REQUESTING A TARP DISAPPROVAL RESOLUTION

JANUARY 15, 2009.

U.S. Congress,
Washington, DC.

DEAR MEMBER OF CONGRESS: On behalf of the millions of taxpaying citizens represented by the public interest organizations below, we write to strongly encourage you to swiftly pass a notice of disapproval on releasing the remaining $350 billion in Troubled Asset Relief Program (TARP) funds.

From the beginning, the TARP plan was questionable, but a number of Members nonetheless resolved to support it. It should be clear now that this was a mistake.

The stated purpose of the TARP was to purchase toxic mortgage assets. Secretary Paulson abandoned this concept immediately after the signing ceremony. The TARP was also designed to reintroduce the flow of credit into the market and help stabilize Wall Street. To date, neither has been accomplished.

In addition to misleading Congress about his intent on the use of TARP funds, Secretary Paulson has invaded the free market, propping up some companies to the detriment of others and purchasing stock in banks without requiring accountability or transparency about the use of taxpayer funds.

The TARP legislation specifically requires that before the second half of the $700 billion is released, the President provide Congress with a written report detailing how the additional funds are to be used. A request to spend the second half of the funds without restraint does not meet the requirements set forth in the bill. In addition to requiring this detailed plan, Congress should require an accounting and detailed explanation on how the initial TARP funds have been used and the prospect of a taxpayer recovery of these funds.

Congress now has an opportunity to preserve some of the taxpayers' assets and should spend the necessary time studying the underlying causes of the economic downturn by passing a TARP disapproval resolution. We encourage you to take such action.

Sincerely,

African American Republican Leadership Council, Alex-St. James, Chairman; American Shareholders Association, Ryan Ellis, Executive Director; Americans for Limited Government, William Wilson, President; Americans for Tax Reform, Grover Norquist, President; Americans for the Preservation of Liberty, Mark Chmura, Executive Director; America's Survival, Inc., Cliff Kincaid, President; Center for Fiscal Accountability, Sandra Fabry, Executive Director; Center for Investors and Entrepreneurs, John Berlau, Director; Citizens United, David N. Bossie, President; Coalition for a Conservative Majority, Ken Blackwell, Chairman; Competitive Enterprise Institute, Fred L. Smith, Jr., President; Council for America, Ron Pearson, President; Council for Citizens Against Government Waste, Thomas Schatz, President; Family Research Council, Thomas McClusky, VP for Government Affairs; Federal Intercessors, Mark Williamson, President and Founder; Free Market Foundation, Kelly Shackelford, Esq., President; FRC Action, Connie Mackey, Senior VP; Maryland Center-Right Coalition, Richard W. C. Falknor, Chairman; Minuteman Civil Defense Corps., Carmen Mercer, Vice President; Minuteman Foundation, Carmen Mercer, President; National Center for Public Policy Research, Amy Ridenour, Chairman; National Taxpayers Union, Duane Parde, President; RedState.com, Erick Erickson, Editor; RightMarch.com, Dr. William Greene, President; The Flash Report Website on CA Politics, Jon Fleischman, Founder; The Inspiration Networks, Ron Shuping, Executive VP of Programming.

Mr. VITTER. Madam President, with the arrival of the majority leader, I yield back my time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Madam President, it is in times of unusual strain and challenge that we are called upon to prove ourselves, as people, as Senators, as a country. With our economy struggling and the American people suffering, most Senators have risen to the challenge.

I would like to take a minute, though, to particularly speak of Senator CHRIS DODD, Chairman DODD of the Banking Committee. He and his staff spent seemingly endless days and nights, working on the rescue plan we passed last year. We thought that would be all for a while. But now that we are in this state of crisis again, Senator DODD is the face and voice of our response to this financial crisis. I have such admiration and respect for Senator DODD as one of the fine orators of the Senate, and that is something everyone sees. But what we do not see is his skill as a legislator, behind doors, in his committee and working with us. And he has done a great job working with Senator SHELBY. They don't always also agree, but they treat each other civilly, and they set the standard for the rest of us. Senator DODD is to be recognized, as I do, for yeoman's work on this legislation.

On the Republican side, it is important to focus on Senator JUDD GREGG. He deserves enormous credit as well during these last few weeks, working on this extension of Troubled Asset Relief Program.

I have been tremendously impressed with President-elect Obama. As his campaign wore on—and it was a long campaign—the American people came to realize this was a unique individual, somebody extremely brilliant academically, someone who could communicate very well, and someone who worked hard and developed the trust of the American people. I have been impressed with his campaign but also with his team and their efforts to secure the second half of the Troubled Asset Relief Program, or TARP. If the actions of the President-elect on TARP are any indication, a new day is dawning in Washington, DC, and a good day, a bright day.

President-elect Obama didn't have to take the step he did. This was a test of leadership at a time when leadership is desperately needed in our country. In this early test whether our new President will stand for what is right, not just for what is easy, President-elect Obama passed with flying colors. He and his economic team came to Capitol Hill repeatedly these past weeks, not just for a photo opportunity but to engage in real negotiations. The Obama administration generally sought the involvement of Democrats and Republicans, treating them not as adversaries or roadblocks to progress but as partners in the legislative process.

I appreciate the willingness of Republicans to work with him and to work with us to pass this legislation. I do not know how many votes we are going to get from the Republicans, but we will get some votes and every one of them is needed and I appreciate that.

I understand the legitimate concerns of Members over the way the first half of the Troubled Asset Relief Program funds have been spent. We in Congress must never forget the funds we allocate to this program belong to the American taxpayers. It is not our money, it is their money, and we must wisely spend and carefully account for every penny, as every family would, to plan their budget to make the current paycheck last until the next paycheck that they hope comes in.

We need transparency, we need openness, we need oversight. With our economy battered and further damage possibly still to come, we must give our new President every tool to try to fix this economy. Barack Obama has made it clear that he understands the mistakes of the prior administration and will not repeat them. President-elect Obama has, in person and in written communications, agreed to commit substantial resources to foreclosure mitigation, as he should.

Barack Obama has also said there will be transparency, there will be oversight, and Barack Obama has said the disbursal of TARP funds will require his signoff; not a Secretary, not somebody in some clerk's office, not a group of people, but every penny will require Barack Obama's personal signoff.

This vote is going to be close. As many of my colleagues decide how to vote, I ask them to think about the challenges our freezing financial markets are causing their constituents. It doesn't matter if it is Minnesota or Nevada or Arizona or New Hampshire, without financial markets that are functional, families cannot buy a home, borrow to pay for college tuition, replace the family car or simply decide what they are going to do this weekend, because they have no money. Businesses of all sizes cannot make payroll for employees or invest in expansion to create new jobs. That is what this vote is all about. This vote is about local governments not being able to build schools but, instead, lay off teachers, lay off police officers. They are trying to pave roads and protect the public health of their citizens.

We should all be angry at the titans of Wall Street, angry because of their excesses. But inaction now would not punish the wrongdoer, it would punish the American people who are already suffering.

None of us, me included, are happy we have to take this vote. I wish we didn't have to. But given the potentially devastating alternative, I trust my colleagues will act with sound judgment and for the long-term good of our country and in this moment of crisis.

This is one of those rare times. I voted thousands and thousands of times, but over the years I have been here since 1982, there are probably only 15 or 20 votes that are memorable. This is a memorable vote. I believe this is the road to recovery for our country.

Let's trust Barack Obama. I look back at a book I read called ''The Master of the Senate.'' It was about Lyndon Johnson. There is a chapter in that book that I think is so revealing as to today. Lyndon Johnson became the Democratic leader. The President of the United States at that time was Dwight Eisenhower. Dwight Eisenhower was the most popular President in the history of the country. Over an 8-year period of time, his popularity averaged 65 percent—over 8 years. So Lyndon Johnson said: I think what the guy is trying to do is the right thing so I am going to get as many of my Senators as I can, all my Democratic Senators, to join with Dwight Eisenhower to accomplish what he thinks should be accomplished.

I ask my Republican colleagues, look at Barack Obama since he has been elected. Has he set a pattern for moderation? Has he set a pattern for people coming into his Cabinet who are good no matter their party? The answer is yes. The American people are impressed with what he has tried to do to move this country forward. I ask my friends to reflect back to Dwight Eisenhower, to look now to Barack Obama. This is the time we need to move forward as Democrats and Republicans, as Americans, and do what is right. I believe this is one of those votes historians are going to record as important. I think, when some of those chapters are written in that book, they are going to say this is the beginning of the economic recovery for our country.

Madam President, is there time remaining?

The PRESIDING OFFICER. There is 3 minutes remaining.

Mr. REID. I yield that back and start the vote now. We will extend it, if necessary.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The clerk will read the joint resolution for the third time.

The joint resolution (S.J. Res. 5) was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. HATCH. (After his name was called) Mr. President, on this vote, Senator KENNEDY is absent. If he were present, he would have voted nay. If I were to vote, I would vote yea. Therefore, I withhold my vote.

Mr. TESTER. (After his name was called) Mr. President, on this vote, I have a pair with the Senator from Ohio, Mr. BROWN. If he were present and voting, he would vote nay. If I were permitted to vote, I would vote yea. I, therefore, withhold my vote.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kentucky (Mr. BUNNING).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 52, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—42

Barrasso	DeMint	McConnell
Bayh	Dorgan	Murkowski
Bennett	Ensign	Nelson (NE)
Bond	Enzi	Risch
Brownback	Feingold	Roberts
Burr	Graham	Sanders
Cantwell	Grassley	Sessions
Chambliss	Hutchison	Shaheen
Coburn	Inhofe	Shelby
Cochran	Isakson	Specter
Collins	Johanns	Thune
Corker	Lincoln	Vitter
Cornyn	Martinez	Wicker
Crapo	McCain	Wyden

NAYS—52

Akaka	Hagan	Murray
Alexander	Harkin	Nelson (FL)
Baucus	Inouye	Pryor
Begich	Johnson	Reed
Biden	Kerry	Reid
Bingaman	Klobuchar	Rockefeller
Boxer	Kohl	Salazar
Burris	Kyl	Schumer
Byrd	Landrieu	Snowe
Cardin	Lautenberg	Stabenow
Carper	Leahy	Udall (CO)
Casey	Levin	Udall (NM)
Clinton	Lieberman	Voinovich
Conrad	Lugar	Warner
Dodd	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feinstein	Merkley	
Gregg	Mikulski	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Hatch, yea	Tester, yea

NOT VOTING—3

Brown	Bunning	Kennedy

The joint resolution was rejected.

Mr. DURBIN. I move to reconsider the vote.

Mrs. MCCASKILL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ALEXANDER. Mr. President, I voted today the same way I did in October because both the current President and the incoming President have said this is an essential insurance policy against financial catastrophe. This is not spending; this is lending money with interest that taxpayers should get back. I would not have voted this way if President-elect Obama had not assured us that he will use this money as it was intended: to keep credit flowing by strengthening financial institutions and housing markets, and not for new industry-by-industry bailouts.

The PRESIDING OFFICER. The majority leader is recognized.

LILLY LEDBETTER FAIR PAY ACT OF 2009

Mr. REID. Madam President, I ask unanimous consent that all postcloture time be yielded back and the Senate adopt the motion to proceed; that upon adoption of the motion, the Senate then proceed to the consideration of S. 181; that once the bill is reported, Senator HUTCHISON be recognized to offer an amendment; that no amendments be in order to the Hutchison amendment prior to a vote in relation to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 181) to amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, and to modify the operation of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

AMENDMENT NO. 25

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 25.

Mrs. HUTCHISON. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: In the nature of substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Title VII Fairness Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Filing limitations periods serve important functions. They ensure that all claims are promptly raised and investigated, and, when remediation is warranted, that the violations involved are promptly remediated.

(2) Limitations periods are particularly important in employment situations, where unresolved grievances have a singularly corrosive and disruptive effect.

(3) Limitations periods are also particularly important for a statutory process that favors the voluntary resolution of claims through mediation and conciliation. Promptly raised issues are invariably more susceptible to such forms of voluntary resolution.

(4) In instances in which that voluntary resolution is not possible, a limitations period ensures that claims will be adjudicated on the basis of evidence that is available, reliable, and from a date that is proximate in time to the adjudication.

(5) Limitations periods, however, should not be construed to foreclose the filing of a claim by a reasonable person who exercises due diligence regarding the person's rights but who did not have, and should not have been expected to have, a reasonable suspicion that the person was the object of unlawful discrimination. Such a person should be afforded the full applicable limitation period to commence a claim from the time the person has, or should be expected to have, a reasonable suspicion of discrimination.

SEC. 3. FILING PERIOD FOR CHARGES ALLEGING UNLAWFUL EMPLOYMENT PRACTICES.

Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(e)) is amended by adding at the end the following:

''(3)(A) This paragraph shall apply to a charge if—

''(i) the charge alleges an unlawful employment practice involving discrimination in violation of this title; and

''(ii) the person aggrieved demonstrates that the person did not have, and should not have been expected to have, enough information to support a reasonable suspicion of such discrimination, on the date on which the alleged unlawful employment practice occurred.

''(B) In the case of such a charge, the applicable 180-day or 300-day filing period described in paragraph (1) shall commence on the date when the person aggrieved has, or should be expected to have, enough information to support a reasonable suspicion of such discrimination.

''(C) Nothing in this paragraph shall be construed to change or modify the provisions of subsection (g)(1).

''(D) Nothing in this paragraph shall be construed to apply to a charge alleging an unlawful employment practice relating to the provision of a pension or a pension benefit.''.

SEC. 4. FILING PERIOD FOR CHARGES ALLEGING UNLAWFUL PRACTICES BASED ON AGE.

Section 7(d) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(d)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking ''(d)'' and inserting ''(d)(1)'';

(3) in the third sentence, by striking ''Upon'' and inserting the following:

''(2) Upon''; and

(4) by adding at the end the following:

''(3)(A) This paragraph shall apply to a charge if—

''(i) the charge alleges an unlawful practice involving discrimination in violation of this Act; and

''(ii) the person aggrieved demonstrates that the person did not have, and should not have been expected to have, enough information to support a reasonable suspicion of such discrimination, on the date on which the alleged unlawful practice occurred.

''(B) In the case of such a charge, the applicable 180-day or 300-day filing period described in paragraph (1) shall commence on the date when the person aggrieved has, or should be expected to have, enough information to support a reasonable suspicion of such discrimination.

''(C) Nothing in this paragraph shall be construed to change or modify any remedial provision of this Act.

''(D) Nothing in this paragraph shall be construed to apply to a charge alleging an unlawful practice relating to the provision of a pension or a pension benefit.''.

SEC. 5. APPLICATION TO OTHER LAWS.

(a) AMERICANS WITH DISABILITIES ACT OF 1990.—Section 706(e)(3) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(e)(3)) shall apply (in the same manner as such section applies to a charge described in subparagraph (A)(i) of such section) to claims of discrimination brought under title I and section 503 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq., 12203), pursuant to section 107(a) of such Act (42 U.S.C. 12117(a)), which adopts the powers, remedies, and procedures set forth in section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5).

(b) CONFORMING AMENDMENTS.—

(1) CIVIL RIGHTS ACT OF 1964.—Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) is amended by adding at the end the following:

''(f)(1) Subject to paragraph (2), section 706(e)(3) shall apply (in the same manner as such section applies to a charge described in subparagraph (A)(i) of such section) to complaints of discrimination under this section.

''(2) For purposes of applying section 706(e)(3) to a complaint under this section, a reference in section 706(e)(3)(B) to a filing period shall be considered to be a reference to the applicable filing period under this section.''.

(2) AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.—

(A) IN GENERAL.—Section 15(f) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(f)) is amended by striking ''of section'' and inserting ''of sections 7(d)(3) and''.

(B) APPLICATION.—For purposes of applying section 7(d)(3) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(d)(3)) to a complaint under section 15 of that Act (29 U.S.C. 633a), a reference in section 7(d)(3)(B) of that Act to a filing period shall be considered to be a reference to the applicable filing period under section 15 of that Act.

Mrs. HUTCHISON. Madam President, my amendment, which I offer along with Senators VOINOVICH, MARTINEZ, GRASSLEY, ENZI, CORKER, ALEXANDER, CORNYN, BURR, MURKOWSKI, and THUNE, is a substitute for the underlying bill that is before us, S. 181. I hope we will, now that we have taken up the bill, fully discuss and hopefully have some amendments that will make the Fair Pay Act a bill that will serve all of the needs of our country. Paramount is the right of an employee to have redress, if that employee is experiencing discrimination. We also need to make sure that our small businesses and medium-sized businesses know what their underlying liabilities might be. That is part of business planning.

I have certainly been a person who has known discrimination. I want everyone who believes they have a cause of action to have that right.

I have also been a business owner. I know how important it is that our businesses know what their potential liabilities are. That is why statutes of limitation were put into the laws of the country, so that one could have a defense, so that there would be timely filings of claims, so that there would be witnesses who would have the memory or the records or the documents to defend against a claim.

My substitute amendment allows the person who is aggrieved, when that person knows or should have known that there was discrimination, to have 180 days, approximately 6 months, to file that claim so that there will be records, there will be notice, and there will be the ability for a defense and for the person to have the fair trial with the people who would be relevant to her or his case.